

रजिस्ट्रार नं० पी० १७.



हिमाचल प्रदेश

राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 19

शिमला, शनिवार, 20 मार्च, 1971/29 फाल्गुन, 1892

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20 मार्च, 1971/29 फाल्गुन, 1892 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियाँ 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुई :

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 14-7/66-Home, dated the 13th August, 1970.	Home Department	Authorising the carrying out of field firing and artillery practice by Army authorities throughout the notified area in Kangra district.
No. 11-69/63-LR, dated the 3rd March, 1971.	(1) 1099/ Law Department	Amendments in the Himachal Pradesh Ministers Travelling Allowance Rules, 1964.

**भाग 1—बैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश
हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि**

राज्यपाल सचिवालय

NOTIFICATION

Simla-4, the 15th March, 1971

No. 32-2 71-G.S.—Shri Subramaniam Chakravarti has assumed the charge of the office of the Governor of Himachal Pradesh on the forenoon of the 25th January, 1971.

P. P. SRIVASTAVA,
Secretary.

हिमाचल प्रदेश हाई कोर्ट

NOTIFICATION

Simla-1, the 4th March, 1971

No. 111C (11)/71-386/71.—The Hon'ble Chief Justice of Himachal Pradesh High Court has been pleased to declare the 11th March, 1971 (Thursday) as local holiday on account of Holi in all Courts of District Mandi subordinate to the High Court of Himachal Pradesh.

By order of the Court,
V. P. BHATNAGAR,
Deputy Registrar.

**हिमाचल प्रदेश सरकार
APPOINTMENT DEPARTMENT**

NOTIFICATION

Simla-2, the 15th February, 1971

No. 10-3 67-Appnt.—In exercise of the powers vested in him under sub-section (6) of section 3 of the Indian Lunacy Act, 1912, the Governor, Himachal Pradesh is pleased to order that the following Magistrate of 1st Class posted in Bilaspur district, Himachal Pradesh shall perform the functions of a Magistrate under the said Act:

1. Shri Kashmir Singh, M.L.C.
2. Shri Budh Ram, M.L.C. (Compensation Officer).
3. Shri Het Ram, M.L.C., (Relief and Rehabilitation Officer).

HARSH GUPTA,
Joint Secretary.

**DEPARTMENT OF PERSONNEL
(APPOINTMENT)**

NOTIFICATIONS

Simla-2, the 15th February, 1971

No. 10-2/68-Appnt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor, Himachal Pradesh, is pleased to appoint Shri Sohan Lal, Revenue Assistant, District Bilaspur to be the Magistrate of the First Class with all the powers of a Magistrate First Class, under the said Code, to be exercised within the local limits of Bilaspur district with effect from the date of his taking over as such.

Simla-2, the 15th February, 1971

No. 10-2/68-Appnt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Governor, Himachal Pradesh, is pleased to appoint Shri S. Padmanabhaiah, Sub-Divisional Officer (Civil), Nalagarh (District Simla) to be the Executive Magistrate of the First Class under the said Code to exercise the powers as such within the local limits of Sub-Division Nalagarh with effect from 5th February, 1971 a^m.

2. In exercise of the powers of the Code of Criminal Procedure, 1898 as amended by the Punjab Separation of Executive Functions Act, 1964, the Governor, Himachal Pradesh, is further pleased to place Shri S. Padmanabhaiah, in charge of the Sub-Divisional Nalagarh, District Simla, to be called Sub-Divisional Magistrate, Nalagarh, District Simla with effect from 5th February, 1971 afternoon.

Simla-2, the 15th February, 1971

No. 11-4/66-Appnt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898) the Governor, Himachal Pradesh, is pleased to appoint Shri A. N. Vidyarthi, I.A.S., Deputy Commissioner, Chamba district, to be the Magistrate of First Class, with all the powers of a Magistrate First Class under the said Code, to be exercised within the local limits of Chamba district, with effect from the date of his taking over as such.

2. In exercise of the powers conferred by sub-section (1) of section 10 of the Code of Criminal Procedure, 1898 (Act V of 1898) the Governor, Himachal Pradesh, is further pleased to appoint Shri A. N. Vidyarthi, I.A.S., Magistrate First Class, to be the District Magistrate of Chamba district, with effect from the date of his taking over as such.

Simla-2, the 19th February, 1971

No. 11-4/66-Appnt.—In exercise of the powers conferred by sub-section (2) of section 10 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Governor, Himachal Pradesh, is pleased to appoint the following Sub-Divisional Officers (Civil) -cum-Executive Magistrates 1st Class as Additional District Magistrates and they shall exercise all or any of the powers of District Magistrate under the Code of Criminal Procedure or under any other law for the time being in force, within the local limits of their jurisdictions:

- (1) Shri K. C. Sharma, HAS, Sub-Divisional Officer (Civil), Una, (District Kangra).
- (2) Shri Y. R. Mahajan, HAS, Sub-Divisional Officer (Civil), Hamirpur (District Kangra).

HARSH GUPTA,
Joint Secretary.

Simla-2, the 19th February, 1971

No. 1-4/71-Appnt. (IV).—In partial modification of this Government Notification of even number, dated the

2nd February, 1971, the Governor, Himachal Pradesh is pleased to appoint Shri Sheel Kumar Saxena, member of Delhi and Andaman Nicobar Islands Police Service, presently posted Additional Superintendent of Police, Central Striking Reserve Force, Junga, to officiate as Superintendent of Police, Kulu district, purely as stop-gap arrangement till further orders, in the public interest, with immediate effect.

K. N. CHANNA,
Chief Secretary.

Simla-2, the 24th February, 1971

No. 1-8/70-Apptt.—The Governor, Himachal Pradesh, is pleased to appoint Shri K. C. Kondal, Tehsildar, Kangra, to officiate as Land Acquisition Officer, Beas Project, Talwara Township temporarily with immediate effect, till further orders.

The posting and transfer orders of Shri J. C. Dutta, Land Acquisition Officer, Simla as Land Acquisition Officer, Beas Project, Talwara Township made vide this Department notification of even number, dated the 11th February, 1971 are hereby cancelled.

Simla-2, the 3rd March, 1971

No. 1-43,64-Apptt.—On attaining the age of 58 years, Shri Mool Raj, officiating Deputy Superintendent of Police, Himachal Pradesh, presently posted as Deputy Superintendent of Police, C.I.D., Simla, shall retire from Government Service with effect from the afternoon of the 19th March, 1971.

Simla-2, the 5th March, 1971

No. 10-2/68-Apptt.—The Governor, Himachal Pradesh is pleased to cancel this department notification No. 10-2/68-Apptt. (i), dated the 25th February, 1971, granting 30 days earned leave to Shri Y. R. Mahajan, Sub-Divisional Officer (Civil), Hamirpur, District Kangra and appointing Shri P. B. Sharma, Settlement Officer (Consolidation) as Sub-Divisional Officer (Civil), Hamirpur, District Kangra.

2. The Governor, is further pleased to cancel this department notification No. 10-2/68-Apptt. (ii), dated the 25th February, 1971, conferring powers of Executive Magistrate 1st Class upon Shri P. B. Sharma.

Simla-2, the 6th March, 1971

No. 11-4/66-Apptt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898) as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Governor, Himachal Pradesh is pleased to appoint Shri I. K. Suri, I.A.S., Deputy Commissioner, Kulu district, to be the Executive Magistrate of the 1st Class, under the said Code to exercise such powers within the local limits of Kulu district with effect from 26th February, 1971.

2. In exercise of the powers conferred by sub-section (1) of section 10 of the Code of Criminal Procedure, 1898 (Act V of 1898), as amended by the Punjab Separation of Judicial and Executive Functions Act, 1964, the Governor, is further pleased to appoint Shri I. K. Suri, I.A.S., Executive Magistrate of the 1st Class to be the District Magistrate of Kulu district with effect from 26th February, 1971.

HARSH GUPTA,
Joint Secretary.

AGRICULTURE DEPARTMENT

NOTIFICATION

Simla-4, the 17th February, 1971

No. 23-131-69-Agr. (Sectt).—In compliance of the offer of appointment issued vide memo. No. 16-16/69-Agr. (Sectt.), dated the 13th March, 1970 read with memo. No. 23-131/69-Agr. (Sectt.) dated the 30th November, 1970 Shri Basant Singh assumed the charge of the post of Assistant Soil Conservation Officer at Palampur on 20th June, 1970 forenoon.

Sd/-
Deputy Secretary.

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Simla-2, the 5th March, 1971

No. 2-32,69-E&T (Sectt).—The Governor, Himachal Pradesh, on the recommendations of the Departmental Promotion Committee, is pleased to appoint Shri Shivdev Singh, Assistant Excise and Taxation Officer, Dharamsala as Excise and Taxation Officer in the scale of Rs. 350-25-500-30-590/30-830-35-900, with immediate effect and post him at Mandi.

2. Shri Shivdev Singh will be on probation for a period of two years.

By order,
M. M. SAHAI SRIVASTAVA,
Secretary.

EDUCATION DEPARTMENT

NOTIFICATION

Simla-2, the 6th March, 1971

No. 1-220/70-Sectt-Edu. I.—In continuation of this department's notification No. 1-220/70-Sectt. Edu. I, dated the 19th February, 1970, the Governor, Himachal Pradesh, is pleased to order that Shri Kultar Chand, Honorary Chairman of the Board of School Education, Himachal Pradesh, is entitled to draw Daily Allowance as is admissible to the members of Himachal Pradesh Vidhan Sabha and for the purpose of travelling allowance he will be treated at par with Grade I officers in connection with the affairs of the Board of School Education, subject to the usual conditions as provided in the Rules.

By order,
PRAKASH CHAND,
Secretary.

ELECTION DEPARTMENT

NOTIFICATION

Simla-2, the 5th March, 1971

No. 5-25/70-Elec.—The Governor, Himachal Pradesh, is pleased to order that there will be a common cadre of all services in the Election Department and that the Himachal Pradesh Election Department Subordinate Class III (Gazetted and Non-Gazetted) Services (Recruitment, Promotion and certain conditions of Service) Rules, 1966 and the Himachal Pradesh Election Department Class IV Service (Recruitment, Promotion and certain conditions of Service) Rules, 1964, shall also apply *mutatis-mutandis* to the staff appointed in the Election Department in connection with the Panchayat elections.

By order,
D. B. LAI,
Secretary.

HORTICULTURE DEPARTMENT NOTIFICATION

Simla-4, the 17th February, 1971

No. 23-10 69-Hort. (Seett).—The Governor, Himachal Pradesh is pleased to appoint Shri R. S. Rana, as Assistant Director of Horticulture in the scale of Rs. 400-1250 with headquarters at Naubahar, (Simla-2), w.e.f. 27th October, 1970 afternoon.

The appointment of Shri R. S. Rana, is on *ad hoc* basis for a period not exceeding one year or till such time the post is filled in regularly in accordance with the provision of the relevant Recruitment and Promotion Rules, whichever is earlier.

P. K. MATTOO,
Secretary.

HEALTH AND FAMILY PLANNING DEPARTMENT NOTIFICATIONS

Simla-2, the 16th February, 1971

No. 1-47 70-H&FP.—On completion of his D.O.M.S. course at Sitapur, Dr. Vijay Kumar Amba is posted as Medical Officer Incharge, Primary Health Centre, Thural in District Kangra.

Simla-2, the 20th February, 1971

No. 1-170 69-H&FP.—The Governor of Himachal Pradesh is pleased to terminate the services of Dr. A. P. Jha, C.A.S. Grade-I (Gazetted) on *ad hoc* basis Medical Officer, Civil Dispensary, Baragaon, with effect from 16th May, 1970 afternoon.

Simla-2, the 25th February, 1971

No. 1-49 69-H&FP. The Governor of Himachal Pradesh is pleased to appoint Dr. Kranti Mohan Sharma as C.A.S. Grade I (Gazetted) with effect from 7th January, 1971 forenoon in the scale of Rs. 350-25-500-30-590/30-830-35-900 on *ad hoc* basis for a period of one year or till the post is filled up on regular basis, whichever is earlier.

S. L. TALWAR,
Under Secretary.

INDUSTRIES DEPARTMENT CERTIFICATES OF APPROVAL

Simla-4, the 3rd March, 1971

No. 10-29 70-SI (CA).—This is to certify that Shri Chaman Lal, Mining and Mineral Enterprise, Nur Manzil, Sanjauli, Simla-6, is approved as a person who is qualified to acquire prospecting licence and mining lease in respect of all minerals except petroleum and natural gas in the territory of Himachal Pradesh under the Mineral Concession Rules, 1960.

The certificate already granted and which expired on the 31st December, 1970 is renewed upto the 31st December, 1971.

Simla-4, the 6th March, 1971

No. 2-378 69-SI (MI).—This is to certify that M/s Jai Singh Thakur and Sons, Government Contractors, Purhotian Street, Nahan, District Sirmur (Himachal Pradesh), is approved as a person who is qualified to acquire prospecting license and mining lease in respect of all minerals except petroleum and natural gas in the territory of Himachal Pradesh under the Mineral Concession Rules, 1960.

The certificate already granted and which expired on

the 31st December, 1970, is renewed upto the 31st December, 1971.

NOTIFICATION

Simla-4, the 6th March, 1971

No. 1-56 69-SI (Estt).—The Governor, Himachal Pradesh, in consultation with the Union Public Service Commission is pleased to order the regularisation of the appointment of Shri R. S. Bisht in the post of Employment Market Information Officer in the Industries Department in relaxation of the educational qualifications prescribed in the recruitment rules for the post with effect from the 11th May, 1966, i.e. the date on which he was approved for promotion to this post by the Departmental Promotion Committee.

2. The Governor, Himachal Pradesh is further pleased to order that the appointment of Shri R. S. Bisht in the post for the period from 25th April, 1960 to 10th May, 1966, may be treated as having been made on *ad hoc* basis.

By order,
P. K. MATTOO,
Secretary.

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 12th February, 1971

No. 2-6 71-LR. —In exercise of the powers vested in him under section 492(1) of the Code of Criminal Procedure, the Governor, Himachal Pradesh is pleased to appoint Shri B. B. Vaid, Advocate of Simla as Public Prosecutor, for conducting and filing the criminal appeal against the order of acquittal, dated the 24th October, 1970 passed by the learned District and Sessions Judge, Kangra Camp at Chamba in the case *State Versus Lobsang Sharap* under sections 302/309 I.P.C.

Simla-2, the 3rd March, 1971

No. 1-172/70-LR.—In exercise of the powers vested in him under section 492 of the Code of Criminal Procedure, the Governor of Himachal Pradesh is pleased to appoint Shri Inder Singh, Advocate of Simla, as Public Prosecutor for conducting the criminal murder reference No. 2/70 + State *Versus* Kali Ram and Criminal Appeal No. 31/70 Shri Kali Ram *Versus* State under section 302 I.P.C.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Simla-2, the 6th March, 1971

No. 3-7/71-LR.—In exercise of the powers vested in him under section 492(1) of the Criminal Procedure Code, the Governor of Himachal Pradesh is pleased to appoint Shri Bakshi Sita Ram Advocate of Simla, as Public Prosecutor to file and conduct the criminal appeal against the order of acquittal dated the 10th December, 1970 passed by the learned Assistant Sessions Judge, Mahasu and Kinnaur districts, in the case *State Versus Ranjit Singh* and others under sections 330, 331, 348 and 109 I. P. C.

D. B. LAL,
Secretary (Judicial).

MULTI PURPOSE PROJECTS AND POWER BRANCH

NOTIFICATIONS

Simla-2, the 19th February, 1971

No. 1-122/60-MPP (Seett).—The Governor, Himachal Pradesh, is pleased to order that Shri Mauj Parkash

Sharma, Assistant Engineer (Electrical) Department of Multipurpose Projects and Power, Himachal Pradesh stands retired from service with effect from the 12th January, 1971 (A.N.) on attaining the age of superannuation.

Simla-2, the 24th February, 1971

No. 1-72/69-MPP(Sectt.).—The Governor, Himachal Pradesh, is pleased to order that Shri R. S. Thakur, Financial Adviser-cum-Accounts Officer, Department of Multipurpose Projects and Power, shall stand retired from service with effect from the 14th March, 1971, (afternoon) on attaining the age of superannuation.

U. N. SHARMA,
Secretary.

PUBLIC WORKS DEPARTMENT NOTIFICATION

Simla-2, the 22nd February, 1971

No. 1-12/71-PWD.—The Governor, Himachal Pradesh is pleased to place the services of Shri A. K. Bhatia, Executive Engineer, Simla Division No. II, Simla, Himachal Pradesh Public Works Department at the disposal of Himachal Pradesh University, Simla, on deputation (foreign service), with immediate effect.

2. Necessary orders with regard to his deputation terms and conditions on foreign service to above University will be issued in due course.

3. Shri J. R. Kainth, Executive Engineer, Chenab Valley Division is transferred and posted as Executive Engineer, Simla Division No. II, Simla vice Shri A. K. Bhatia.

U. N. SHARMA,
Secretary.

REVENUE DEPARTMENT NOTIFICATION

Simla-2, the 15th February, 1971

No. 2-38/65-Rev.I (III).—The Financial Commissioner, Himachal Pradesh is pleased to order the transfer of Shri H. D. Attri, Tehsildar, Theog, temporarily, to Pangi Tehsil (vacant post) District Chamba, with immediate effect.

2. Shri Attri will be entitled to the usual transfer T.A. as admissible under the Rules.

By order,
S. R. MAHANTAN,
Deputy Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं

इत्यादि

OFFICE OF THE DEPUTY COMMISSIONER, MANDI DISTRICT, (HIMACHAL PRADESH) OFFICE ORDER

Mandi, the 22nd February, 1971

No. 32-MD-1 (17)/69-Vol. IV.—In continuation of this office order of even number, dated the 19th December, 1970, it is hereby ordered that 27th February, 1971 (Saturday) corresponding to Phalguna 8, 1892 (Saka) shall be observed as local holiday at the District Headquarters of Mandi district.

Sd/-
Deputy Commissioner.

ELECTION DEPARTMENT NOTIFICATION

Simla-2, the 9th March, 1971

No. 5-5/66-Elec.—On the recommendations of the Departmental Promotion Committee, Shri Kesar Singh, a permanent Naib-Tehsildar (Elections), District Election Office, Mahasu district, Kasumpti, is hereby promoted to officiate as Tehsildar (Election) Class III (Gazetted) in the scale of Rs. 400-25-500/30-650, purely on an *ad hoc* basis from the date of taking over as such.

Consequent upon his promotion, Shri Kesar Singh is transferred and posted as Tehsildar (Elections) for Mandi, Kulu, Bilaspur districts and Lahaul Sub-Division of Lahaul Spiti district with headquarters at Mandi.

The above promotion is purely *ad hoc* and would as such confer no right or claim on the official concerned for seniority, confirmation and regular promotion and he can be reverted to his original post at any time without assigning any reasons therefor.

D. B. LAL,
Chief Electoral Officer.

HEALTH AND FAMILY PLANNING DEPARTMENT NOTIFICATION

Simla-4, the 24th February, 1971

No. 5-3/69-Med. III.—In exercise of the powers vested in me under Rule 10 (4) of the Delegation of Financial Powers Rules, 1958, read with Government of India, Ministry of Home Affairs letter No. 4-5/65-Fin. (Pt.), dated the 1st May, 1964, I hereby declare Dr. D. S. Chauhan, Deputy Medical Superintendent, Snowdon Hospital, Simla, as head of office and drawing and disbursing officer under head "29 Medical and 30 Public Health" both Plan and Non-Plan, in respect of Himachal Pradesh State Hospital, Snowdon, Simla and controlling officer for the purposes of T.A. etc. for Class III and IV establishment working in the said institutions, in addition to his own duties, till further orders.

Sd/-
Director of Health Services.

INDUSTRIES DEPARTMENT FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT *Nahan, the 9th March, 1971*

No. 8-7/69-7866-69.—WHEREAS a notice was served on 21-9-1970 on Shri Birender Singh s/o Shri Shankar, village Ambwala, Tehsil Nahan under section 23 of the Punjab State Aid to Industries (H. P. Amendment) Act, 1964, calling upon the said Shri Birender Singh to pay to me the sum of Rs. 5,000 along with interest up-to-date on or before the 30th October, 1970; and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 5,000 loan along with up-to-date interest due thereon up-to-date is due from the said Shri Birender Singh and that the property described in the attached Schedule is liable for the satisfaction of the said debt.

SCHEDULE

1/7 share of Khasra No. 154 115, 156, 157 measuring

102.7 Bighas (14 Bighas 14 Biswas) situated at Village Mohlia Katola, Tehsil Nahan, District Sirmur.

Sd/-

District Industries Officer, Nahan.

PUBLIC WORKS DEPARTMENT NOTIFICATION

Dharamsala, the 3rd March, 1971

No. SEV-WS-DIL-12-69 2 W-II. Whereas it appears to the Governor of Himachal Pradesh that land is likely to be acquired to be taken by the Government at public expenses for a public purpose namely for "Augmentation of Water Supply Scheme, Jawalamukhi 2 Nos. pre-colation wells in Tehsil Dehra Gopipur, District Kangra". It is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provision of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officer for the time being engaged in the

undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of any land in the locality may, within 30 days of the publication of this notification, file an objection in writing before the Land Acquisition Officer, Himachal Pradesh Public Works Department, Kangra.

SPECIFICATION

District: KANGRA Tehsil: DEHRA GOPIPUR

Village	Tikka	Area in Acres
DHAWALA	DHAWALA	2.14

Sd/-

*Superintending Engineer,
5th Circle, Himachal Pradesh Public Works Department,
Dharamsala.*

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेंशियल कमिशनर तथा कमिशनर आफ़

इल्कम-टेक्स द्वारा अधिसूचित आदेश इत्यादि

EXCISE AND TAXATION DEPARTMENT NOTIFICATION

Simla-2, the 25th February, 1971

No. 7-19, 69-E&T. —In exercise of the powers conferred on me under section 59 read with section 9 of the Punjab Excise Act (I of 1914) as applied to the areas comprised in Himachal Pradesh immediately before 1st November, 1966, and the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966

and all other powers enabling me in this behalf, I, Prabhakar Kamat, Excise and Taxation Commissioner, Himachal Pradesh hereby direct that all the liquor vend shops shall remain closed on 2nd March, 1971 or 5th March, 1971, according as the Parliamentary constituency in which the shop is located goes to the poll.

PRABHAKAR KAMAT,
Excise and Taxation Commissioner.

भाग 4—स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

शून्य

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

STATE BANK OF PATIALA NOTICE

Patiala, the 1st March, 1971

SBOP. No. 9. The following transfers and changes in the posting of Bank's Supervising staff are hereby notified:

1. Shri R. N. Kataria, Officer Grade 'B' to be Manager, Simla branch as from the close of business on the 22nd February, 1971.
2. Shri O. P. Gupta (I), Junior Officer to be Manager, Hamirpur branch as from the close of business on 1st February, 1971.
3. Shri Hari Ram Gupta, Junior Officer, officiated as Manager, Kasauli branch, as from the close of business on 6th February, 1971 to the close of business on 11th February, 1971 vice Shri K. K. Mehta, Officer Grade 'C'.
4. Shri D. D. Sharma, Junior Officer, officiated as Manager, Simla branch, as from the close of business on 3rd November, 1970 to the close of business on 22nd February, 1971 vice Shri R. N. Kataria, Officer Grade 'B'.

S. D. GANDA,
General Manager.

IN THE COURT OF SHRI P. L. SHARMA, B.A., LL.B. SENIOR SUB-JUDGE, SIMLA

(Exercising the power of the District Judge, Simla in the matter of the Indian Succession Act, 1925)

CASE No. 9 OF 1969

Application under section 372 of the Indian Succession Act.

Shri Bharat Singh Negi s/o late Rup Singh Negi, Village Anubasa, Post Office Rohru

Petitioner.

Versus

General Public

Respondent.

To
All concerned.

WHEREAS the above named petitioner has filed an application in this Court for grant of Indian Succession Certificate of the property and credits of the late Shri Rup Singh Negi, M.I.C., at the time of death posted at Rampur, Himachal Pradesh deceased. Notice is hereby given to the General Public that if any body has any objection in this case, such person should appear in this Court on 7-4-1971 (7th April, 1971) at 10 a.m. to file their objection. If no objection is filed by the above date the Succession Certificate will be given to the petitioner.

Given under my hand and the seal of the Court this, 10th March, 1971.

P. L. SHARMA,
Senior Sub-Judge, Simla.

PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

IN THE COURT OF SHRI P. L. SHARMA, B.A., LL.B.
JUDGE, SMALL CAUSE COURT, SIMLA

SUIT No. 121 OF 1970

Shri Jagdish Chandra Gupta, Gharile Manzil, Middle Bazar, Simla
Plaintiff

Versus

Shri Ram Singh, S.D.C., M.P.P. and Power Department,
Kandaghat Division, Simla-4.
To

Shri Ram Singh, S.D.C., M.P.P. and Power Department
(Kandaghat Division), Simla-4.

Whereas in the above noted case, it has been proved to the satisfaction of the Court that the above noted defendant is evading the service of the summons and cannot be served in normal course of service. Hence this proclamation is hereby issued against him to appear in this Court on the date of hearing on 27-4-1971 at 10 A.M. personally or through his authorised agent or pleader to defend the case. Failing which *ex-parte* proceedings will be taken against him.

Given under my hand and the seal of this Court this 6th day of March, 1971.

P. L. SHARMA,
Judge,
Small Cause Court, Simla.

Seal.

PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

IN THE COURT OF SHRI P. L. SHARMA, B.A., LL.B.
JUDGE, SMALL CAUSE COURT, SIMLA

SUIT No. 65 OF 1968

Shri Kuldip Chand, sole proprietor of the firm of M/s
Kaycee Radio Corporation, Ram Bazar, Simla
Plaintiff.

Versus

Shri Naresh Chand Sud, House No. 5596, Nai Sarak
New Delhi-6
Defendant.

To

Shri Naresh Chand Sud, House No. 5596, Nai Sarak,
New Delhi-6.

Whereas in the above noted case, it has been proved to the satisfaction of the Court that the above noted defendant is evading the service of the summons and cannot

be served in normal course of service. Hence this proclamation is hereby issued against him to appear in this Court on the date of hearing on 14-4-1971 at 10 A.M., personally or through his authorised agent or pleader to defend the case. Failing which *ex-parte* proceedings will be taken against him.

Given under my hand and the seal of this Court this 6th day of March, 1971.

P. L. SHARMA,
Judge,
Small Cause Court, Simla.

Seal.

व अदालत मोनियर नव-जज साहिब बहादुर, कांगड़ा, मकाम धर्ममाला
दख्खामत जानशीनी न० 14 वावत साल, 1970

ब मुकदमा श्रीमती विमला देवी विधवा मतवफी श्री कर्म चन्द
(2) श्री मुदेश चकरा (3) अशोक कुमार बेटे मतवफी कर्म चन्द
(4) श्रीमती मुदेश कुमारी (5) निर्मला देवी (6) आदेश पुत्रिया
मतवफी श्री कर्म चन्द, निवासी मकना डिपू बाजार, धर्ममाला,
तहसील व जिला कांगड़ा (सायलान)

बनाम

सर्व जन्ता:

दख्खामत बराये हमूल सर्टीफिकेट जानशीनी तरका श्री कर्म चन्द
पुत्र श्री मुदामा राम, जानि ब्राह्मण आम्ही निवासी, डिपू बाजार
धर्ममाला तहसील व जिला कांगड़ा वावत जमा शुदा मवलिय 10,930
रुपये 59 पैसे

बनाम

सर्व जन्ता:

मुकदमा मुन्दरजा उनवान बाला में सायलान ने दरखास्त बराये
हमूल सर्टीफिकेट जानशीनी तरका श्री कर्म चन्द मतवफी
अदालत हजा में गुजारी है लिहाजा इस लिखित इशतहार द्वारा हर
खाम व आम आदमी को सूचित किया जाता है कि अगर कोई उजर
नोसबत इस दरखास्त के किसी आदमी को हो तो वह निधि
30-3-71 को प्रातः 10 बजे हाजर अदालत हजा आकर पेश करे
वसूरत दीगर कारंवाई जावता अमल में लाई जावेगी।

आज निधि 1-3-71.

मोहर

हस्ताक्षरित,
मोनियर नव-जज,
कांगड़ा।

भाग 6---भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

(देखिये पृष्ठ 396--)

भाग 7---भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं
तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

अनुपूरक

शून्य

PART I

FOREST DEPARTMENT
NOTIFICATION*Simla-2, the 6th March, 1971*

No. 1-139 69-SF (Est.) The Governor of Himachal Pradesh is pleased to order the confirmation of the following four Forest Officers to Class I posts in the Forest Department Himachal Pradesh in the scale of Rs. 350-400-500-550-600-650-700-750-800 with effect from the 20th

February, 1959 in the following order against promotion quota posts: --

1. Shri B. S. Parmar.
2. Shri R. C. Datta.
3. Shri D. D. Sharma.
4. Shri Sant Ram.

P. K. MATTOO,
Secretary.

PART VI

LAW DEPARTMENT

NOTIFICATION

Simla-4, the 22nd February, 1964

No. 1-1/64-LR.—The following Acts recently passed by the Parliament of India and published in the Gazette of India, Extraordinary Part II, Section 1, dated the 3rd, 3rd, 4th, 9th, 9th, 11th, 11th, 13th, 16th, 16th and 21st December, 1963 respectively are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963 (40 of 1963).
2. The Industrial Employment (Standing Order) Amendment Act, 1963.
3. The Textiles Committee Act, 1963 (41 of 1963).
4. The Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963 (42 of 1963).
5. The Income Tax (Amendment) Act, 1963 (43 of 1963).
6. The Specific Relief Act, 1963 (47 of 1963).
7. The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1963 (48 of 1963).
8. The East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963 (49 of 1963).
9. The Indian Tariff (Second Amendment) Act, 1963 (50 of 1963).

S. R. MAHANTAN,
Under Secretary (Judicial).

Assented to on 2-12-1963

THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT ACT, 1963 (ACT No. 40 OF 1963)

AN
ACT

further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1958.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963.
2. *Amendment of section 2.*—In section 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958) (hereinafter referred to as the principal Act), after clause (d), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

“(dd) “rent”, in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises, and includes—
(i) any charge for electricity, water or any other services in connection with the occupation of the premises.
(ii) any tax (by whatever name called) payable in respect of the premises,

where such charge or tax is payable by the Central Government”.

3. *Amendment of section 3.*—In section 3 of the principal Act,—
(a) in clause (a), after the words “gazetted officers of Government”, the words, brackets, letter and figure “or officers of equivalent rank of the Corporation or any committee or the authority referred to in clause (b) of section 2” shall be inserted;
(b) in clause (b), for the words “each estate officer”, the words “the estate officers” shall be substituted.
4. *Amendment of section 5.*—In sub-section (2) of section 5 of the principal Act,—
(a) for the words “forty-five days”, the words “thirty days” shall be substituted;
(b) the proviso shall be omitted.
5. *Amendment of section 6.*—In sub-section (2) of section 6 of the principal Act, after the words “rent or damages”, the words “or costs” shall be inserted.
6. *Amendment of section 7.*—In section 7 of the principal Act,—
(a) in sub-section (2), the proviso shall be omitted;
(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer.”.

7. *Amendment of section 9.*—In section 9 of the principal Act,—
(a) in sub-section (2), for the words “thirty days” wherever they occur, the words “fifteen days” shall be substituted;

- (b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) The costs of any appeal under this section shall be in the discretion of the appellate officer.”.

8. *Amendment of section 10.*—To section 10 of the principal Act, the following words shall be added at the end, namely:—

“and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act”.

9. *Insertion of new sections 10A, 10B, 10C and 10D.*—After section 10 of the principal Act, the following sections shall be inserted, namely:—

“10A. *Offences and penalty.*—(1) If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

- (2) Any magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any action that may be taken against him under this Act.

10B. *Power to obtain information.*—If the estate officer has reasons to believe that any persons are in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

10C. *Liability of heirs and legal representatives.*—(1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

- (2) Any amount due to the Central Government from any person whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his heirs or legal representatives, but their liability shall be limited to the extent of the assets of the deceased in their hands.

10D. *Recovery of rent, etc., as an arrear of land revenue.*—If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or costs awarded to the Central Government under sub-section (4A) of section 9 or any portion of such rent, damages or costs, within the time, if any, specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.”.

10. *Amendment of section 13.*—In section 13 of the principal Act,—

- (a) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

“(bb) the distribution and allocation of work to estate officers and the transfer of any proceeding pending before an estate officer to another estate officer;”.

- (b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

11. *Special provision for limitation.*—For the removal of doubts, it is hereby declared that the amendments made by clause (a) of section 7 of this Act shall not apply to any order made under section 5 or section 7 of the principal Act before the commencement of this Act.

Assented to on 2-12-1963

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS)
AMENDMENT ACT, 1963
(ACT No. 39 OF 1963)

AN
ACT

further to amend the Industrial Employment (Standing Orders) Act, 1946.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Industrial Employment (Standing Orders) Amendment Act, 1963.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 1.*—In section 1 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) (hereinafter referred to as the principal Act),—

- (i) in sub-section (3), the second proviso shall be omitted;
- (ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Nothing in this Act shall apply to—

- (i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 (Bombay Act II of 1947) Apply; or
- (ii) any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act, 26 of 1961) apply;

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act 26 of 1961), the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.”

3. *Amendment of section 2.*—In section 2 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

“(a) “appellate authority” means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act;

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that Court or authority shall be deemed to be the appellate authority.”

4. *Amendment of section 10.*—In section 10 of the principal Act,—

- (i) in sub-section (2), the words ‘the standing orders in which shall be indicated’ shall be omitted;
- (ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra”.

5. *Amendment of section 11.*—Section 11 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Clerical or arithmetical mistakes in any order passed by a Certifying Officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that officer or authority or the successor in office of such officer or authority, as the case may be.”.

6. *Insertion of new section 12A.*—After section 12 of the principal Act, the following section shall be inserted, namely:—

“12A. *Temporary application of model standing orders.*—(1) Notwithstanding anything contained in sections 3 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with

the date on which the standing orders as finally certified under this Act come into operation under section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment, and the provisions of section 9, sub-section (2) of section 13 and section 13A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.”.

7. *Substitution of new section for section 14A.*—For section 14A of the principal Act, the following section shall be substituted, namely:—

“14A. *Delegation of powers.*—The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

- (a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;
- (b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.”.

Assented to on 3-12-1963

THE TEXTILES COMMITTEE ACT, 1963
(ACT No. 41 OF 1963)

AN
ACT

to provided for the establishment of a Committee for ensuring the quality of textiles and textile machinery and for matters connected therewith.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Textiles Committee Act, 1963.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “Chairman” means the Chairman of the Committee;
- (b) “Committee” means the Committee established under section 3;
- (c) “Fund” means the Textiles Fund referred to in section 7;
- (d) “member” means a member of the Committee and includes the Chairman and the Vice-Chairman;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “textile machinery” means the equipment employed directly or indirectly for the processing of textile fibre into yarn and for the manufacture of fabric therefrom by weaving or knitting and includes equipment used either wholly or partly for the finishing, folding or packing of textiles;
- (g) “textiles” means any fabric or cloth or yarn made wholly or in part of cotton, or wool or silk or artificial silk or other fibre;
- (h) “Vice-Chairman” means the Vice-Chairman of the Committee.

3. *Establishment of Textiles Committee.*—(1) The Central Government shall, by notification in the Official Gazette, establish with effect from such date as may be specified in the notification, a Committee to be known as the Textiles Committee, which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by that name, sue or be sued.

(2) The Head Office of the Committee shall be in Bombay.

(3) The Committee shall consist of—

- (a) a Chairman to be appointed by the Central Government;
- (b) a Vice-Chairman who shall be the Textile Commissioner, *ex-officio*;
- (c) a Joint Secretary to the Government of India to be appointed by the Central Government, *ex-officio*;
- (d) such other members as the Central Government may think fit to appoint who, in the opinion of that Government, have special knowledge or practical experience in matters relating to the textile industry and trade and the manufacture of textile machinery.

4. *Functions of the Committee.*—(1) Subject to the provisions of this Act, the functions of the Committee shall generally be to ensure by such measures, as it thinks fit, standard qualities of textiles both for internal marketing and export purposes and the manufacture and use of standard type of textile machinery.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Committee may—

- (a) undertake, assist and encourage, scientific, technological and economic research in textile industry and textile machinery;
 - (b) promote export of textiles and textile machinery and carry on propaganda for that purpose;
 - (c) establish, adopt or recognise standard specifications for textiles for the purposes of export and for internal consumption and affix suitable marks on such standardised varieties of textiles;
 - (d) specify the type of quality control or inspection which will be applied to textiles or textile machinery;
 - (e) provide for the inspection and examination of—
 - (i) textiles;
 - (ii) textile machinery at any stage of manufacture and also while it is in use at mill-heads;
 - (f) establish laboratories and test houses for the testing of textiles;
 - (g) provide for testing textiles and textile machinery in laboratories and test houses other than those established under clause (f);
 - (h) collect statistics for any of the above mentioned purposes from—
 - (i) manufacturers of, and dealers in, textiles;
 - (ii) manufacturers of textile machinery; and
 - (iii) such other persons as may be prescribed;
 - (i) advise on all matters relating to the development of textile industry and the production of textile machinery;
 - (j) provide for such other matters as may be prescribed.
- (3) In the discharge of its functions, the Committee shall be bound by such directions as the Central Government may, for reasons to be stated in writing, give to it from time to time.

5. *Powers of the Committee.*—The Committee may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

6. *Grants by Central Government to the Committee.*—For the purpose of enabling the Committee to discharge its functions under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Committee in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise.

7. *Constitution of Fund.*—(1) The Committee shall have a Fund to be called the Textiles Fund and there shall be credited thereto—

- (a) all moneys transferred to it under clause (a) of sub-section (2) of section 24;
 - (b) all moneys paid by the Central Government under section 6;
 - (c) all fees and other charges levied under this Act;
 - (d) all moneys received by the Committee by way of grant, gift, donation, contribution, transfer or otherwise.
- (2) The moneys in the Fund shall be applied for—
- (a) meeting the pay and allowances of the officers and other employees of the Committee and other administrative expenses of the Committee;
 - (b) carrying out the purposes of this Act.

(3) All moneys in the Fund shall be deposited in the State Bank of India or be invested in such securities as may be approved by the Central Government.

8. *Standing or ad hoc Committees.*—(1) The Committee may constitute Standing Committees or ad hoc Committees for exercising any power or discharging any duty of the Committee or for inquiring into or reporting and advising on any matter which the Committee may refer to them.

(2) A Standing Committee shall consist exclusively of members of the Committee.

(3) An ad hoc Committee may include persons who are not members of the Committee but their number shall not exceed one-half of its strength.

9. *Officers and other employees of the Committee.*—(1) The Central Government shall, in consultation with the Committee, appoint a person to be the Secretary of the Committee.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Committee may appoint such other officers and employees as it considers necessary for the efficient performance of its functions.

(3) The methods of appointment, the conditions of service and the scales of pay of the officers and other employees of the Committee shall—

- (a) as respects the Secretary, be such as may be prescribed; and
- (b) as respect the other officers and employees, be such as may be determined by regulations made by the Committee under this Act.

10. *Transfer of service of existing employees to the committee.*—Subject to the provisions of this Act, every person employed by the

Cotton Textiles Fund Committee constituted under section 5 of the Cotton Textiles Fund Ordinance, 1944 (34 of 1944), immediately before the date of establishment of the Committee shall, on and from such date, become an employee of the Committee with such designation as the Committee may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held on such date if the Committee had not been established and shall continue to do so unless and until his employment in the Committee is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Committee.

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

11. *Inspection.*—(1) The Committee may, on application made to it or otherwise, direct an officer specially authorised in that behalf to examine the quality of textiles or the suitability of textile machinery for use at the time of manufacture or while in use in a textile mill and submit a report to the Committee.

(2) Subject to any rules made under this Act, such an officer shall have power to—

- (a) inspect any operation carried on in connection with the manufacture of textiles or textile machinery in relation to which construction particulars, marks or inspection standards have been specified;
- (b) take samples of any article or of any material or substance used in any article or process in relation to which construction particulars, marks or inspection standards have been specified;
- (c) exercise such other powers as may be prescribed.

(3) On receipt of the report referred to in sub-section (1), the Committee may tender such advice, as it may deem fit, to the manufacturer of textiles, the manufacturer of textile machinery and the applicant.

12. *Levy of fees for inspection and examination.*—(1) The Committee may levy such fees as may be prescribed—

- (a) for inspection and examination of textiles,
- (b) for inspection and examination of textile machinery,
- (c) for any other service which the Committee may render to the manufacturers of textiles and textile machinery;

Provided that the Central Government may, by notification in the Official Gazette, exempt from the payment of fees, generally or in any particular case.

(2) Any sum payable to the Committee under sub-section (1) may be recovered as an arrear of land revenue.

13. *Accounts and audit.*—(1) The Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in accordance with such general directions as may be issued, and in such form as may be prescribed, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Committee shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Committee to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Committee shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Committee.

(4) The accounts of the Committee as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

14. *Delegation of powers and duties.*—The Committee may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in its order, be exercised or discharged also by any officer or employee of the Committee specified in this behalf in the order.

15. *Acts or proceedings of Committee not to be invalidated.*—No act or proceeding of the Committee shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Committee; or
- (b) any defect in the appointment of a person acting as a member of the Committee; or
- (c) any irregularity in the procedure of the Committee not affecting the merits of the case.

16. *Officers and employees of the Committee to be public servants.*—All officers and employees of the Committee shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public

servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

17. Power to prohibit exports and internal marketing of textiles and textile machinery.—(1) Where the Committee has established, adopted or recognised standard specifications for textiles either for internal consumption or for the purposes of export or has established, adopted or recognised standard type of textile machinery and on the recommendation made to it in this behalf, the Central Government is of opinion that any textiles or textile machinery which do not conform to the standards laid by the Committee in respect thereof, should not be exported or sold for internal consumption, the Central Government may, by order published in the Official Gazette, prohibit such export or sale.

(2) If any person contravenes any order issued under sub-section (1) prohibiting—

- (a) the export of any textiles or textile machinery, or
- (b) the sale of any textiles or textile machinery for internal consumption.

he shall, on conviction, be punishable,—

- (i) for the first offence with imprisonment for a term which may extend to one year or with fine or with both;
- (ii) for the second or a subsequent offence with imprisonment for a term which may extend to one year and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than three months.

(3) Any court trying the contravention of an order prohibiting the marketing of textiles or textile machinery under sub-section (1) may, without prejudice to the provisions of clause (b) or sub-section (2), direct that the textiles or textile machinery in respect of which the court is satisfied that such contravention has been committed, shall be forfeited to the Central Government.

18. Offences by companies.—(1) If the person committing any offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

19. Procedure for prosecution.—No prosecution for any offence punishable under this Act shall be instituted except by or with the consent of the Central Government.

20. Jurisdiction of courts.—No court inferior to that of a Presidency Magistrate or a Magistrate of the first class, shall try any offence punishable under this Act.

21. Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against the Committee or any member, officer or employee of the Committee for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

22. Power to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the number of members and the composition of the Committee and the manner in which the members shall be chosen;
- (b) the term of office of and the manner of filling casual vacancies among the members of the Committee;
- (c) the allowances, if any, payable to the members of the Committee;
- (d) the disqualification for membership of the Committee;
- (e) the scale of fees that may be levied for inspection and examination under section 12;
- (f) the form in which the Committee shall prepare its annual statement of accounts and balance-sheet;
- (g) the method of appointment, the conditions of service and the scale of pay of the Secretary of the Committee;
- (h) the collection of any information or statistics in respect of

textile industry and trade and the manufacture of textile machinery:

- (i) the mode of inspection by the Committee and the manner in which samples may be taken by it.

(3) Every rule made under this section by the Central Government shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. Power to make regulations.—(1) The Committee may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the meeting of the Committee, Standing Committees and *ad hoc* Committees, the quorum for such meetings and the conduct of business thereat;
- (b) the allowances payable to the members of the Standing Committees or the *ad hoc* Committees;
- (c) the methods of appointment, the conditions of service and the scales of pay of the officers (other than the Secretary) and other employees of the Committee;
- (d) the duties and conduct of officers and other employees of the Committee; and
- (e) any other matter in respect of which the Committee is empowered or required to make regulations under this Act.

(3) The Central Government may, by notification in the Official Gazette, amend, vary or rescind any regulation which it has sanctioned; and thereupon the regulation shall have effect accordingly, but without prejudice to the exercise of the powers of the Committee under sub-section (1).

24. Repeal and Saving.—(1) With effect from the date on which Committee is established under section 3, the Cotton Textiles Fund Ordinance, 1944 (34 of 1944) shall stand repealed.

(2) Notwithstanding the repeal of the said Ordinance,—

- (a) all moneys the credit of the Cotton Textiles Fund established under the repealed Ordinance immediately before the said date shall with effect from the said date and transferred to and form part of the Textiles Fund referred to in section 7;
- (b) any rules made or deemed to have been made or anything done or any action taken in exercise of any of the powers conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such rules were made, such thing was done or such action was taken.

Assented to on-7-12-63.

THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) AMENDMENT ACT, 1963 (ACT No. 42 OF 1963)

AN
ACT

to amend the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.

Enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963.

2. Amendment of section 2.—In section 2 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (21 of 1954), (hereinafter referred to as the principal Act),—

- (i) after clause (c), the following clause shall be inserted, namely:—

“(cc) “registered medical practitioner” means any person,—

- (i) who holds a qualification granted by an authority specified in, or notified under, section 3 of the Indian Medical Degrees Act, 1916 (7 of 1916) or specified in the Schedules to the Indian Medical Council Act, 1956 (102 of 1956); or
- (ii) who is entitled to be registered as a medical practitioner under any law for the time being in force in any State to which this Act extends relating to the registration of medical practitioners;”

(ii) clause (e) shall be omitted.

3. *Amendment of section 3.*—In section 3 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

“(d) the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule, or any other disease, disorder or condition (by whatsoever name called) which may be specified in the rules made under this Act:

Provided that no such rule shall be made except—

- (i) in respect of any disease, disorder or condition which requires timely treatment in consultation with a registered medical practitioner or for which there are normally no accepted remedies; and
- (ii) after consultation with the Drugs Technical Advisory Board constituted under the Drugs and Cosmetics Act, 1940 (23 of 1940) and, if the Central Government considers necessary, with such other persons having special knowledge or practical experience in respect of Ayurvedic or Unani systems of medicines as that Government deems fit.”

4. *Amendment of section 7.*—In section 7 of the principal Act, after the words “any of the provisions of this Act”, the words “or the rules made thereunder” shall be inserted.

5. *Substitution of new section for section 8.*—For section 8 of the principal Act, the following section shall be substituted, namely:—

“8. *Powers of entry, search, etc.*—(1) Subject to the provisions of any rules made in this behalf, any Gazetted Officer authorised by the State Government may, within the local limits of the area for which he is so authorised,—

- (a) enter and search at all reasonable times, with such assistants, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;
- (b) seize any advertisement which he has reason to believe contravenes any of the provisions of this Act;

Provided that the power of seizure under this clause may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing, if the advertisement cannot be separated by reason of its being embossed or otherwise, from such document, article or thing without affecting the integrity, utility or saleable value thereof;

- (c) examine any record, register, document or any other material object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

(3) Where any person seizes anything under clause (b) or clause (c) of sub-section (1), he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.”

6. *Insertion of new section 9A.*—After section 9 of the principal Act, the following section shall be inserted, namely:—

“9A. *Offences to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence punishable under this Act shall be cognizable.”

7. *Insertion of new section 10A.*—After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. *Forfeiture.*—Where a person has been convicted by any court for contravening any provision of this Act or any rule made thereunder, the court may direct that any document (including all copies thereof), article or thing, in respect of which the contravention is made, including the contents thereof where such contents are seized under clause (b) of sub-section (1) of section 8, shall be forfeited to the Government.”

8. *Substitution of new section for section 14.*—For section 14 of the principal Act, the following section shall be substituted, namely:—

“14. *Savings.*—Nothing in this Act shall apply to—

- (a) any sign board or notice displayed by a registered medical practitioner on his premises indicating that treatment for any disease, disorder or condition specified in section 3, the Schedule or the rules made under this Act, is undertaken in those premises; or
- (b) any treatise or book dealing with any of the matters specified in section 3 from a *bona fide* scientific or social standpoint; or
- (c) any advertisement relating to any drug sent confidentially in the manner prescribed under section 16 only to a registered medical practitioner; or
- (d) any advertisement relating to a drug printed or published by the Government; or
- (e) any advertisement relating to a drug printed or published

by any person with the previous sanction of the Government granted prior to the commencement of the Drug and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963:

Provided that the Government may, for reasons to be recorded in writing, withdraw the sanction after giving the person an opportunity of showing cause against such withdrawal.”

9. *Amendment of section 15.*—In section 15 of the principal Act,—

- (i) after the words “any specified drug or class of drugs”, the words “or any specified class of advertisements relating to drugs” shall be inserted;
- (ii) after the words “any such drug or class of drugs”, the words “or any such class of advertisements relating to drugs” shall be inserted.

10. *Amendment of section 16.*—In section 16 of the principal Act,—

(a) in sub-section (2)—

- (i) in clause (a), for the words “disease or condition”, the words “disease, disorder or condition” shall be substituted;
- (ii) in clause (b), the words, brackets and figure “sub-section (1) of” shall be omitted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

11. *Insertion of a new Schedule.*—After section 16 of the principal Act, the following Schedule shall be added, namely:—

“THE SCHEDULE

[See sections 3 (d) and 14]

S. No. Name of the disease, disorder or condition

1. Appendicitis
2. Arteriosclerosis
3. Blindness
4. Blood poisoning
5. Bright's disease
6. Cancer
7. Cataract
8. Deafness
9. Diabetes
10. Diseases and disorders of the brain
11. Diseases and disorders of the optical system
12. Diseases and disorders of the uterus
13. Disorders of menstrual flow
14. Disorders of the nervous system
15. Disorders of the prostatic gland
16. Dropsy
17. Epilepsy
18. Female diseases (in general)
19. Fevers (in general)
20. Fits
21. Form and structure of the female bust
22. Gall stones, kidney stones and bladder stones
23. Gangrene
24. Glaucoma
25. Goitre
26. Heart diseases
27. High or low blood pressure
28. Hydrocele
29. Hysteria
30. Infantile paralysis
31. Insanity
32. Leprosy
33. Leucoderma
34. Lockjaw
35. Locomotor ataxia
36. Lupus
37. Nervous debility
38. Obesity
39. Paralysis
40. Plague
41. Pleurisy
42. Pneumonia
43. Rheumatism

Sl. No.	Name of the disease, disorder or condition
44.	Ruptures
45.	Sexual impotence
46.	Small pox
47.	Stature of persons
48.	Sterility in women
49.	Trachoma
50.	Tuberculosis
51.	Tumours
52.	Typhoid fever
53.	Ulcers of the gastro-intestinal tract
54.	Veneral diseases, including syphilis, gonorrhoea, soft chancre, venereal granuloma and lympho granuloma."

Assented to on 9-12-63.

THE INCOME-TAX (AMENDMENT) ACT, 1963 (ACT No. 43 OF 1963)

AN
ACT

Further to amend the Income-tax Act, 1961.

Enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Income-tax (Amendment) Act, 1963.

(2) It shall be deemed to have come into force on the 1st day of April, 1963.

2. *Amendment of section 33.*—in section 33 of the Income-tax Act, 1961 (43 of 1961), in sub-section (1)—

(a) in clause (i), the word "and" where it occurs last shall be omitted;

(b) for clause (ii), the following clauses shall be substituted, namely:—

"(ii) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent. of the actual cost of the machinery or plant to the assessee; and

(iii) in the case of machinery or plant installed after the 31st day of March, 1961—

(a) where the machinery or plant is installed after the 31st day of March, 1963 and before the 1st day of April, 1966, for the purposes of business of mining coal, thirty-five per cent. of the actual cost of the machinery or plant to the assessee; and

(b) in any other case, twenty per cent. of the actual cost of the machinery or plant to the assessee."

Assented to on 11-12-63.

THE ADMINISTRATORS-GENERAL ACT, 1963 (ACT No. 45 OF 1963)

AN
ACT

to consolidate and amend the law relating to the office and duties of Administrator-General.

Enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Administrators-General Act, 1963.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,

(a) "assets" means all the property, movable and immovable, of a deceased person, which is chargeable with and applicable to the payment of his debts and legacies, or available for distribution among his heirs and next-of-kin;

(b) "letters of administration" includes any letters of administration whether general or with a copy of the will annexed or limited in time or otherwise;

(c) "next-of-kin" includes a widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased; and

(d) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE OFFICE OF THE ADMINISTRATOR-GENERAL

3. *Appointment of Administrator-General.*—(1) The State Government shall appoint an Administrator-General for the State:

Provided that nothing herein contained shall be deemed to bar the appointment of the same person as Administrator-General for two or more States.

(2) No person shall be appointed to the office of Administrator-General unless he has been for at least—

- (a) seven years an advocate; or
- (b) seven years an attorney of a High Court; or
- (c) ten years a member of the judicial service of a State; or
- (d) five years a Deputy Administrator-General.

4. *Appointment and powers of Deputy Administrator-General.*—(1) The State Government may appoint a Deputy or Deputies to assist the Administrator-General; and any Deputy so appointed shall, subject to the control of the State Government and the general or special orders of the Administrator-General, be competent to discharge any of the duties and to exercise any of the powers of the Administrator-General, and when discharging such duties or exercising such powers shall have the same privileges and be subject to the same liabilities as the Administrator-General.

(2) No person shall be appointed as a Deputy under this section unless he has been for at least three years—

- (a) an advocate; or
- (b) an attorney of a High Court; or
- (c) a member of the judicial service of a State.

5. *Incorporation.*—The Administrator-General shall be a corporation sole by the name of the Administrator-General of the State for which he is appointed, and, as such Administrator-General, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

CHAPTER III

RIGHTS, POWERS AND DUTIES OF THE ADMINISTRATOR-GENERAL

(a) *Grant of letters of administration and probate*

6. *Jurisdiction of High Court for the whole State.*—So far as regards the Administrator-General of any State, the High Court shall be deemed to be a Court of competent jurisdiction for the purpose of granting probate or letters of administration under any law for the time being in force, wheresoever within the State the estate to be administered is situate:

Provided that nothing in this section shall be construed as affecting the jurisdiction of any district court.

7. *Administrator-General entitled to letters of administration, unless granted to next-of-kin.*—Any letters of administration granted by the High Court shall be granted to the Administrator-General of the State unless they are granted to the next-of-kin of the deceased.

8. *Administrator-General, entitled to letters of administration in preference to creditors, certain legatees or friends.*—The Administrator-General of the State shall be deemed by all the courts in the State to have a right to letters of administration other than *letter pendente lite* in preference to that of—

- (a) a creditor; or
- (b) a legatee, other than a universal legatee or a residuary legatee or the representative of a residuary legatee; or
- (c) a friend of the deceased.

9. *Right of Administrator-General to apply for administration of estates.*—(1) If—

- (a) any person has died leaving within any State assets exceeding rupees five thousand in value, and
- (b) (whether the obtaining of probate of his will or letters of administration to his estate is or is not obligatory), no person to whom any court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such State for such probate, or letters of administration, and
- (c) in cases where the obtaining of such probate or letters of administration is not obligatory under the provisions of the Indian Succession Act, 1925 (39 of 1925) no person has taken other proceedings for the protection of the estate,

the Administrator-General of the State in which such assets are, may, subject to any rules made by the State Government, within a reasonable time after he has had notice of the death of such person, and of his having left such assets, take such proceedings as may be necessary to obtain from the High Court letters of administration of the estate of such person.

(2) The Administrator-General shall not take proceedings under this section unless he is satisfied, that there is apprehension of misappropriation, deterioration or waste of such assets if such proceedings are not taken by him or that such proceedings are otherwise necessary for the protection of the assets.

10. *Power of Administrator-General to collect and hold assets where immediate action is required.*—(1) Whenever any person has

died leaving assets within any State exceeding rupees five thousand in value, and the High Court for that State is satisfied that there is imminent danger of misappropriation, deterioration or waste of such assets, requiring immediate action, the High Court may, upon the application of the Administrator-General or of any person interested in such assets or in the due administration thereof, forthwith direct the Administrator-General—

- (a) to collect and take possession of such assets, and
- (b) to hold, deposit, realise, sell or invest the same according to the directions of the High Court, and, in default of any such directions, according to the provisions of this Act so far as the same are applicable to such assets.

(2) Any order of the High Court under sub-section (1) shall entitle the Administrator-General—

- (a) to maintain any suit or proceeding for the recovery of such assets;
- (b) if he thinks fit, to apply for letters of administration of the estate of such deceased person;
- (c) to retain out of the assets of the estate any fees chargeable under rules made under this Act; and
- (d) to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

11. *Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator-General.*—If, in the course of proceedings to obtain letters of administration under the provisions of section 9 or section 10,—

- (a) any person appears and establishes his claim—
 - (i) to probate of the will of the deceased; or
 - (ii) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law; or
- (b) any person satisfies the High Court that he has taken and is prosecuting with due diligence other proceedings for the protection of the estate, the case being one in which the obtaining of such probate or letters of administration is not obligatory under the provisions of the Indian Succession Act, 1925 (39 of 1925); or
- (c) the High Court is satisfied that there is no apprehension of misappropriation, deterioration, or waste of the assets and that the grant of letters of administration in such proceedings is not otherwise necessary for the protection of the assets; the High Court shall—

- (1) in the case mentioned in clause (a), grant probate of the will or letters of administration accordingly;
- (2) in the case mentioned in clause (b) or clause (c), drop the proceedings; and
- (3) in all the cases aforesaid to the Administrator-General the costs of any proceedings taken by him under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

12. *Grant of administration to Administrator-General in certain cases.*—If, in the course of proceedings to obtain letters of administration under the provisions of section 9 or section 10, and within such period as to the High Court seems reasonable, no person appears and establishes his claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, or satisfies the High Court that he has taken and is prosecuting with due diligence other proceedings for the protection of the estate, the case being one in which the obtaining of such probate or letters of administration is not obligatory under the provisions of the Indian Succession Act, 1925 (39 of 1925), and the High Court is satisfied that there is apprehension of misappropriation, deterioration, or waste of the assets or that the grant of letters of administration in such proceedings is otherwise necessary for the protection of the assets;

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law; the High Court may grant letters of administration to the Administrator-General.

13. *Administrator-General not precluded from applying for letters within one month after death.*—Nothing in this Act shall be deemed to preclude the Administrator-General from applying to the High Court for letters of administration in any case within the period of one month from the death of the deceased.

(b) Revocation of grants

14. *Recall of Administrator-General's administration and grant of probate, etc., to executor or next-of-kin.*—If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto, establishes to the satisfaction of the High Court a claim to probate of will or to letters of administration in preference to the Administrator-General, any letters of administration granted in

accordance with the provisions of this Act to the Administrator-General—

- (a) shall be revoked, if a will of the deceased is proved in the State;
- (b) may be revoked, in other cases, if an application for that purpose is made within six months after the grant to the Administrator-General and the High Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made;

and probate or letters of administration may be granted to such executor or next-of-kin as the case may be.

15. *Cost of obtaining administration, etc., may, on revocation, be ordered to be paid to Administrator-General out of estate.* If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, the High Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act, together with the costs of the Administrator-General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator-General out of the estate.

Provided that nothing in this section shall affect the provisions of clauses (c) and (d) of sub-section (2) of section 10.

16. *After revocation letters granted to Administrator-General to be deemed, as to him, to have been voidable only.* If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator-General and all persons acting under his authority, in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator-General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void.

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator-General or any person acting under his authority in pursuance of such letters unless, within the period of one month from the time of giving such notice, proceedings are commenced to prove the will, or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay.

17. *Payments made by Administrator-General prior to revocation.*—If any letters of administration granted to the Administrator-General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator-General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(c) General

18. *Administrator-General's petition for grant of letters of administration.*—Whenever any Administrator-General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letters states,—

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner;
- (ii) the names and addresses of the surviving next-of-kin of the deceased, if known;
- (iii) the particulars and value of the assets likely to come into the hands of the petitioner;
- (iv) particulars of the liabilities of the estate, if known.

19. *Name in which probate or letters to be granted.*—All probates or letters of administration granted to any Administrator-General shall be granted to him by that name.

20. *Effect of probate or letters granted to Administrator-General.*—(1) Probate or letters of administration granted by the High Court to the Administrator-General of any State shall have effect over all the assets of the deceased throughout the territories to which this Act extends and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator-General.

(2) Whenever a grant of probate or letters of administration is made by a High Court to the Administrator-General, the High Court shall send to the High Courts for the other States a certificate that such grant has been made, and such certificate shall be filed by the High Court receiving the same.

21. *Effect of grant by the High Court of Jammu and Kashmir.*—Probate or letters of administration granted by the High Court for the State of Jammu and Kashmir to the Administrator-General of that State shall have effect over all the assets of the deceased throughout all the States to the High Courts of which a certificate

is sent by the High Court for the State of Jammu and Kashmir that such grant has been made, and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding such assets, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such assets to such Administrator-General.

22. Transfer by private executor or administrator of interest under probate or letters.—(1) Any private executor or administrator may, with the previous consent of the Administrator-General of the State in which any of the assets of the estate, in respect of which such executor or administrator has obtained probate or letters of administration, are situate, by an instrument in writing under his hand notified in the Official Gazette, transfer the assets of the estate, vested in him by virtue of such probate or letters to the Administrator-General by that name or any other sufficient description.

(2) As from the date of such transfer, the transferor shall be exempt from all liability as such executor or administrator, as the case may be, except in respect of acts done before the date of such transfer, and the Administrator-General shall have the rights which he would have had, and be subject to the liabilities to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by that name at the date of such transfer.

23. Distribution of assets.—(1) When the Administrator-General has given the prescribed notice to creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he has notice of.

(2) The Administrator-General shall not be liable for the assets so distributed to any person of whose claims he had not notice at the time of such distribution.

(3) No notice of any claim which has been sent in and has been rejected or disallowed in part by the Administrator-General shall affect him, unless proceedings to enforce such claim are commenced within one month after notice of the rejection or disallowance of such claim has been given in the prescribed manner and unless such proceedings are prosecuted without unreasonable delay.

(4) Nothing in this section shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same respectively.

(5) In computing the period of limitation for any suit, appeal or application under the provisions of any law for the time being in force, the period between the date of submission of the claim of a creditor or other claimant to the Administrator-General and the date of the final decision of the Administrator-General on such claim shall be excluded.

24. Appointment of Official Trustee as trustee of assets after completion of administration.—(1) When the Administrator-General has, so far as may be, discharged all the liabilities of an estate administered by him, he shall notify the fact in the Official Gazette, and he may, by an instrument in writing, with the consent of the Official Trustee and subject to any rules made by the State Government, appoint the Official Trustee to be the trustee of any assets then remaining in his hands.

(2) Upon such appointment, such assets shall vest in the Official Trustee as if he had been appointed trustee in accordance with the provisions of the Official Trustees Act, 1913 (2 of 1913), and shall be held by him upon the same trusts as the same were held immediately before such appointment.

25. Power of High Court to give directions regarding administration of estate.—The High Court may, on application made to it by the Administrator-General or any person interested in the assets or in the due administration thereof, give to the Administrator-General of the State any general or special directions as to any estate in his charge or in regard to the administration of any such estate.

26. No security to be required from Administrator-General.—No Administrator-General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him by that name.

27. Manner in which petition to be verified by Administrator-General.—No Administrator-General shall be required by verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within his own personal knowledge, the petition may be subscribed and verified by any person competent to make verification.

28. Entry of Administrator-General not to constitute notice of a trust.—The entry of the Administrator-General by that name in the books of a company shall not constitute notice of a trust, and a company shall not be entitled to object to entering the name of the Administrator-General on its register by reason only that the Administrator-General is a corporation, and in dealing with assets

the fact that the person dealt with is the Administrator-General shall not of itself constitute notice of a trust.

CHAPTER IV GRANT OF CERTIFICATE

29. In what cases Administrator-General may grant certificate.—

(1) Whenever any person has died leaving assets within any State and the Administrator-General of such State is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank or in any provident fund to which the provisions of the Provident Funds Act, 1925 (19 of 1925), apply, did not at the date of death exceed in the whole five thousand rupees in value, he may grant to any person, claiming otherwise than as a creditor to be interested in such assets or in the due administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased within the State, to a value not exceeding in the whole five thousand rupees.

(2) No certificate under this section shall be granted before the lapse of one month from the death unless before the lapse of the said one month the Administrator-General is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased and he thinks fit to grant it.

(3) No certificate shall be granted under this section,—

(i) where probate of the deceased's will or letters of administration of his estate has or have been granted; or

(ii) in respect of any sum of money deposited in a Government Savings Bank or in any provident fund to which the provisions of the Provident Funds Act, 1925 (19 of 1925), apply.

30. Grant of certificate to creditors and power to take charge of certain estates.—(1) If, in cases falling within section 29, no person claiming to be interested otherwise than as a creditor in such assets or in the due administration thereof obtains, within three months of the death of the deceased, a certificate from the Administrator-General under that section, or probate of a will or letters of administration of the estate of the deceased, the Administrator-General may administer the estate without letters of administration, in the same manner as if such letters had been granted to him.

(2) If the Administrator-General neglects or refuses to administer such estate, he shall, upon the application of a creditor, grant a certificate to him in the same manner as if he were interested in such assets otherwise than as a creditor; and such certificate shall have the same effect as a certificate granted under the provisions of section 29, and shall be subject to all the provisions of this Act which are applicable to such certificate.

(3) The Administrator-General may, if he thinks fit, before granting a certificate under sub-section (2), require the creditor to give reasonable security for the due administration of the estate of the deceased.

31. Administrator-General not bound to grant certificate unless satisfied of claimant's title, etc.—The Administrator-General shall not be bound to grant any certificate under section 29 or section 30 unless he is satisfied after making such inquiry as he thinks fit of the title of the claimant and of the value of the assets left by the deceased within the State.

32. Effect of certificate.—The holder of a certificate granted in accordance with the provisions of section 29 or section 30 shall have in respect of the assets specified in such certificate the same powers and duties, and be subject to the same liabilities as he would have had or been subject to if letters of administration had been granted to him:

Provided that nothing in this section shall be deemed to require any person holding such certificate,—

(a) to file accounts or inventories of the assets of the deceased before any court or other authority; or

(b) save as provided in section 30, to give any bond for the due administration of the estate.

33. Revocation of certificate.—(1) The Administrator-General may revoke a certificate granted under the provisions of section 29 or section 30 on any of the following grounds, namely:—

(i) that the certificate was obtained by fraud or misrepresentation made to him;

(ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

(2) No certificate shall be revoked under this section unless the holder of the certificate has been given a reasonable opportunity of showing cause why the certificate should not be so revoked.

34. Surrender of revoked certificate.—(1) When a certificate is revoked in accordance with the provisions of section 33, the holder thereof shall, on the requisition of the Administrator-General, deliver it up to such Administrator-General, but shall not be entitled to the refund of any fee paid thereon.

(2) If such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

35. *Payment to holder of certificate before it is revoked.*—When a certificate is revoked in accordance with the provisions of section 33, all payments made in good faith under such certificate to the holder thereof before such revocation, shall, notwithstanding such revocation, be a legal discharge to the person making the payment and the holder of such certificate may retain and reimburse himself in respect of any payments made by him which the person to whom a certificate or probate or letters of administration may afterwards be granted might lawfully have made.

36. *Administrator-General not bound to take out administration account of assets for which he has granted certificate.*—The Administrator-General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate under section 29 or section 30, but he may do so if he revokes such certificate under section 33, or ascertains that the value of the estate exceeded five thousand rupees.

37. *Transfer of certain assets to executor or administrator in country of domicile for distribution.*—Where—

(a) a person not having his domicile in any State to which this Act extends has died leaving assets in any State and in the country in which he had his domicile at the time of his death, and

(b) proceedings for the administration of his estate with respect to assets in any such State have been taken under section 29 or section 30, and

(c) there has been grant of administration in the country of domicile with respect to the assets in that country, then the holder of the certificate granted under section 29 or section 30, or the Administrator-General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of India or in the State of Jammu and Kashmir who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

CHAPTER V LIABILITY

38. *Liability of Government.*—The Government shall be liable to make good all sums required to discharge any liability which the Administrator-General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator-General nor any of his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted, and in either of those cases the Administrator-General shall not, nor shall the Government, be subject to any liability.

39. *Creditor's suit against Administrator-General.*—(1) If any suit be brought by a creditor against any Administrator-General, such creditor shall be liable to pay the costs of the suit unless he proves that not less than one month previous to the institution of the suit he had applied in writing to the Administrator-General, stating the amount and other particulars of his claim, and had given such evidence in support thereof as, in the circumstances of the case, the Administrator-General was reasonably entitled to require.

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment of the amount decreed or ordered by the court to be paid out of the assets of the deceased equally and rateably with the other creditors.

40. *Notice of suit not required in certain cases.*—Nothing in section 80 of the Code of Civil Procedure, 1908 (5 of 1908), shall apply to any suit against the Administrator-General in which no relief is claimed against him personally.

CHAPTER VI FEES

41. *Fees.*—(1) There shall be charged in respect of the duties of the Administrator-General such fees, whether by way of percentage or otherwise, as may be prescribed by the State Government.

(2) The fees under this section may be at different rates for different estates or classes of estates or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act, (including such sum as the State Government may determine to be required to ensure the Government against loss under this Act).

42. *Disposal of fees.*—(1) Any expenses which might be retained or paid out of any estate in the charge of the Administrator-General, if he were a private Administrator of such estate shall be so retained or paid and the fees described under section 41 shall be retained or paid in like manner as and in addition to such expenses.

(2) The Administrator-General shall transfer and pay to such authority in such manner and at such time as the State Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and the credit of the Government.

CHAPTER VII CREDIT OF THE ADMINISTRATOR-GENERAL'S ACCOUNTS

43. *Audit.*—The accounts of every Administrator-General shall be audited at least once annually and at any other time if the State Government so directs, by the prescribed person and in the prescribed manner.

44. *Auditors to examine accounts and report to Government.*—The auditors shall examine the accounts and forward to the State Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by them showing—

(a) whether the accounts have been audited in the prescribed manner;

(b) whether, so far as can be ascertained by such audit, the accounts contain a full and true account of everything which ought to be inserted therein;

(c) whether the books which by any rules made under this Act are directed to be kept by the Administrator-General, have been duly and regularly kept; and

(d) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any rules made thereunder;

or (as the case may be) that such accounts are deficient, or that the Administrator-General has failed to comply with this Act or the rules made thereunder in such respects as may be specified in such certificate.

45. *Power of auditors to summon and examine witnesses, and to call for documents.*—(1) Every auditor shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and inspection;

(c) compelling the production of documents; and

(d) issuing commissions for the examination of witnesses.

(2) Any person who when summoned refuses, or, without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under section 188 of the Indian Penal Code (54 of 1960), and the auditor shall report every case of such refusal or neglect to the State Government.

46. *Costs of audit, etc.*—The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the State Government, and shall be defrayed in the prescribed manner.

CHAPTER VIII MISCELLANEOUS

47. *General powers of administration.*—The Administrator-General may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

(a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge; and

(b) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

48. *Power to summon and examine witnesses.*—(1) The Administrator-General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, exercise all the powers vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and inspection;

(c) compelling the production of documents; and

(d) issuing commissions for the examination of witnesses.

(2) The provisions of sub-section (2) of section 45 shall apply in relation to a person summoned by the Administrator-General under this section as they apply in relation to a person summoned under section 44.

49. *Power of person beneficially interested to inspect Administrator-General's account, etc., and take copies.*—Any person interested in the administration of any estate which is in the charge of the Administrator-General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

50. *False evidence.*—Whoever, during any examination authorised by this Act, makes upon oath a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

51. *Assets unclaimed for twelve years to be transferred to Government.* All assets in the charge of the Administrator-General which have been in his custody for a period of twelve years or upwards whether before or after the commencement of this Act, without any application for payment thereof having been made and granted by him shall be transferred, in the prescribed manner, to the account and credit of the Government:

Provided that this section shall not authorise the transfer of any such assets as aforesaid, if any suit or proceeding is pending in respect thereof in any court.

52. *Mode of proceeding by claimant to recover principal money so transferred.*—(1) If any claim is hereafter made to any part of the assets transferred to the account and credit of the Government under the provisions of this Act, or any Act hereby repealed, and if such claim is established to the satisfaction of the prescribed authority, the State Government shall pay to the claimant the amount of the principal so transferred to its account and credit or so much thereof as has been found by the said authority to be due to the claimant.

(2) If the claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such assets, apply by petition to the High Court against the State Government and such Court, after taking such evidence as it thinks fit, shall make such order in regard to the payment of the whole or any part of the said principal sum as it thinks fit, and such order shall be binding on all parties to the proceedings.

(3) The High Court may further direct by whom the whole or any part of the costs of each party shall be paid.

53. *Succession Act or Companies Act not to affect Administrator-General.*—Nothing contained in the Indian Succession Act, 1925 (39 of 1925), or the Companies Act, 1956, (1 of 1956) shall be taken to supersede or affect the rights, duties and privileges of any Administrator-General.

54. *Savings of provisions of Police Acts for presidency towns.*—Nothing contained in the Indian Succession Act, 1925 (39 of 1925), or in this Act, shall be deemed to affect, or to have affected, any law for the time being in force relating to the movable property under four hundred rupees in value of persons dying intestate within any of the presidency towns which shall be or has been taken charge of by the police for the purpose of safe custody.

55. *Order of court to be equivalent to decree.*—Any order made under this Act by any court shall have the same effect as a decree.

56. *Provision for administration by Consular Officer in case of death in certain circumstances of foreign subject.*—Notwithstanding anything in this Act, or in any other law for the time being in force, the Central Government may, by general or special order, direct that, where a subject of a foreign State dies in the territories to which this Act extends, and it appears that there is no one in the said territories, other than the Administrator-General, entitled to apply to a court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such court by any Consular Officer of such foreign State, be granted to such Consular Officer on such terms and conditions as the Court may, subject to any rules made in this behalf by the Central Government, think fit to impose.

57. *Letters of administration not necessary in respect of small estates administered by Administrator-General in accordance with certain Acts.*—It shall not be necessary for the Administrator-General to take out letters of administration of the estate of any deceased person which is being administered by him in accordance with the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950 (40 of 1950), or the Navy Act, 1957 (62 of 1957), if the value of such estate does not, on the date when such administration is committed to him, exceed rupees two thousand, but he shall have the same power in regard to such estate as he would have had if letters of administration had been granted to him.

58. *Powers to grant Administrator-General letters limited for purpose of dealing with assets in accordance with the Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957.*—If the Administrator-General applies in accordance with the

provisions of the Army and Air Force (Disposal of Private Property) Act, 1950 (40 of 1950), or the Navy Act, 1957 (62 of 1957), for letters of administration of the estate of any person subject to the Army Act, 1950, or the Air Force Act, 1950 (46 of 1950), or the Navy Act, 1957 the Court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950 (40 of 1950), or, as the case may be, the Navy Act, 1957.

59. *Act not to affect Army and Air Force (Disposal of Private Property) Act, 1950, or the Navy Act, 1957.*—Nothing in this Act shall be deemed to affect the provisions of the Army and Air Force (Disposal of Private Property) Act, 1950 (40 of 1950), or the Navy Act, 1957 (62 of 1957).

60. *Saving of provisions of Indian Registration Act, 1908.*—Nothing in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908 (16 of 1908).

61. *Power of Central Government to make rules.*—The Central Government may, by notification in the Official Gazette, make rules as to the terms and conditions on which letters of administration may be granted to Consular Officers under section 56.

62. *Power of State Government to make rules.*—(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act, and for regulating the proceedings of the Administrator-General.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the accounts to be kept by the Administrator-General and the audit and inspection thereof;
- (b) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator-General;
- (c) the remittance of sums of money in the hands of the Administrator-General in cases in which such remittances are required;
- (d) subject to the provisions of this Act, the fees to be paid under this Act and the collection and accounting for any such fees;
- (e) the statements, schedules and other documents to be submitted to the State Government or to any other authority by the Administrator-General, and the publication thereof;
- (f) the realization of the cost of preparing any such statements, schedules or other documents;
- (g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed;
- (h) the manner in which summons are issued under this Act are to be served and the payment of the expenses of any person summoned or examined under the provisions of this Act, and of any expenditure incidental to such examination; and
- (i) any other matter which is required to be, or may be, prescribed under this Act.

63. *Laying of rules made by Central Government before Parliament.*—Every rule made by the Central Government under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. *Repeal and savings.*—(1) The Administrator-General's Act, 1913 (3 of 1913), is hereby repealed.

(2) Without prejudice to the generality of the provisions of the General Clauses Act, 1897 (10 of 1897), relating to the effect of repeals, the repeal effected by this section shall not affect the incorporation of any person holding the office of Administrator-General at the commencement of this Act.

(3) Notwithstanding anything contained in this section, the provisions of section 59B of the Administrator-General's Act, 1913 (3 of 1913), shall continue to apply as if that Act had not been repealed.

Assented to on 13-12-1963

THE SPECIFIC RELIEF ACT, 1963 (ACT No. 47 of 1963)

AN
ACT

to define and amend the law relating to certain kinds of specific relief. Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:

PART I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Specific Relief Act, 1963.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "obligation" includes every duty enforceable by law;
- (b) "settlement" means an instrument (other than a will or codicil as defined by the Indian Succession Act, 1925) (39 of 1925), whereby the destination or devolution of successive interests in movable or immovable property is disposed of or is agreed to be disposed of;
- (c) "trust" has the same meaning as in section 3 of the Indian Trusts Act, 1882 (2 of 1882), and includes an obligation in the nature of a trust within the meaning of Chapter IX of that Act;
- (d) "trustee" includes every person holding property in trust;
- (e) all other words and expressions used herein but not defined, and defined in the Indian Contract Act, 1872 (9 of 1872), have the meanings respectively assigned to them in that Act.

3. Savings.—Except as otherwise provided herein, nothing in this Act shall be deemed—

- (a) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or
- (b) to affect the operation of the Indian Registration Act, 1908 (16 of 1908), on documents.

4. Specific relief to be granted only for enforcing individual civil rights and not for enforcing penal laws.—Specific relief can be granted only for the purpose of enforcing individual civil rights and not for the mere purpose of enforcing a penal law.

PART II SPECIFIC RELIEF CHAPTER I

RECOVERING POSSESSION OF PROPERTY

5. Recovery of specific immovable property.—A person entitled to the possession of specific immovable property may recover it in the manner provided by the Code of Civil Procedure, 1908 (5 of 1908).

6. Suit by person dispossessed of immovable property.—(1) If any person dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.

(2) No suit under this section shall be brought—

- (a) after the expiry of six months from the date of dispossession; or
- (b) against the Government.

(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

7. Recovery of specific movable property.—A person entitled to the possession of specific movable property may recover it in the manner provided by the Code of Civil Procedure, 1908 (5 of 1908).

Explanation 1.—A trustee may sue under this section for the possession of movable property to the beneficial interest in which the person for whom he is trustee is entitled.

Explanation 2.—A special or temporary right to the present possession of movable property is sufficient to support a suit under this section.

8. Liability of person in possession, not as owner to deliver to persons entitled to immediate possession.—Any person having the possession or control of a particular article of movable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:—

- (a) when the thing claimed is held by the defendant as the agent or trustee of the plaintiff;
- (b) when compensation in money would not afford the plaintiff adequate relief for the loss of the thing claimed;
- (c) when it would be extremely difficult to ascertain the actual damage caused by its loss;
- (d) when the possession of the thing claimed has been wrongfully transferred from the plaintiff.

Explanation.—Unless and until the contrary is proved, the court shall, in respect of any article of movable property claimed under clause (b) or clause (c) of this section, presume—

- (a) that compensation in money would not afford the plaintiff adequate relief for the loss of the thing claimed, or, as the case may be;
- (b) that it would be extremely difficult to ascertain the actual damage caused by its loss.

CHAPTER II SPECIFIC PERFORMANCE OF CONTRACTS

9. Defences respecting suits for relief based on contract. Except as otherwise provided herein, where any relief is claimed under this Chapter in respect of a contract, the person against whom the relief is claimed may plead by way of defence any ground which is available to him under any law relating to contracts.

CONTRACTS WHICH CAN BE SPECIFICALLY ENFORCED

10. Cases in which specific performance of contract enforceable.—Except as otherwise provided in this Chapter, the specific performance of any contract may, in the discretion of the court, be enforced.

- (a) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done; or
- (b) when the act agreed to be done is such that compensation in money for its non-performance would not afford adequate relief.

Explanation.—Unless and until the contrary is proved, the court shall presume—

- (i) that the breach of a contract to transfer immovable property cannot be adequately relieved by compensation in money; and
- (ii) that the breach of a contract to transfer movable property can be so relieved except in the following cases:—
 - (a) where the property is not an ordinary article of commerce, or is of special value or interest to the plaintiff, or consists of goods which are not easily obtainable in the market;
 - (b) where the property is held by the defendant as the agent or trustee of the plaintiff.

11. Cases in which specific performance of contracts connected with trusts enforceable.—(1) Except as otherwise provided in this Act, specific performance of a contract may, in the discretion of the court, be enforced when the act agreed to be done is in the performance wholly or partly of a trust.

(2) A contract made by a trustee in excess of his powers or in breach of trust can not be specifically enforced.

12. Specific performance of part of contract.—(1) Except as otherwise hereinafter provided in this section the court shall not direct the specific performance of a part of a contract.

(2) Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value and admits of compensation in money, the court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

(3) Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed either—

- (a) forms a considerable part of the whole, though admitting of compensation in money; or
 - (b) does not admit of compensation in money;
- he is not entitled to obtain a decree for specific performance; but the court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, if the other party—
- (i) in a case falling under clause (a), pays or has paid the agreed consideration for the whole of the contract reduced by the consideration for the part which must be left unperformed and in a case falling under clause (b), the consideration for the whole of the contract without any abatement; and
 - (ii) in either case, relinquishes all claims to the performance of the remaining part of the contract and all right to compensation, either for the deficiency or for the loss or damage sustained by him through the default of the defendant.

(4) When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which can not or ought not to be specifically performed, the court may direct specific performance of the former part.

Explanation. For the purposes of this section, a party to a contract shall be deemed to be unable to perform the whole of his part of it if a portion of its subject-matter existing at the date of the contract has ceased to exist at the time of its performance.

13. Rights of purchaser or lessee against person with no title or imperfect title.—(1) Where a person contracts to sell or let certain immovable property having no title or only an imperfect title, the purchaser or lessee (subject to the other provisions of this Chapter), has the following rights, namely:—

- (a) if the vendor or lessor has subsequently to the contract acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

- (b) where the concurrence of other persons is necessary for validating the title, and they are bound to concur at the request of the vendor or lessor, the purchaser or lessee may compel him to procure such concurrence, and when a conveyance by other persons is necessary to validate the title and they are bound to convey at the request of the vendor or lessor, the purchaser or lessee may compel him to procure such conveyance;
- (c) where the vendor professes to sell unencumbered property, but the property is mortgaged for an amount not exceeding the purchase money and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a valid discharge, and, where necessary, also a conveyance from the mortgagee;
- (d) where the vendor or lessor sues for specific performance of the contract and the suit is dismissed on the ground of his want of title or imperfect title, the defendant has a right to a return of his deposit, if any, with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest, if any, of the vendor or lessor in the property which is the subject-matter of the contract.

(2) The provisions of sub-section (1) shall also apply, as far as may be, to contracts for the sale or hire of movable property.

CONTRACTS WHICH CANNOT BE SPECIFICALLY ENFORCED
14. Contracts not specifically enforceable.—(1) The following contracts cannot be specifically enforced, namely:—

- (a) a contract for the non-performance of which compensation in money is an adequate relief;
- (b) a contract which runs into such minute or numerous details or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the court cannot enforce specific performance of its material terms;
- (c) a contract which is in its nature determinable;
- (d) a contract the performance of which involves the performance of a continuous duty which the court cannot supervise.

(2) Save as provided by the Arbitration Act, 1940 (10 of 1940), no contract to refer present or future differences to arbitration shall be specifically enforced; but if any person who has made such a contract (other than an arbitration agreement to which the provisions of the said Act apply) and has refused to perform it sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

(3) Notwithstanding anything contained in clause (a) or clause (c) or clause (d) of sub-section (1), the court may enforce specific performance in the following cases:—

- (a) where the suit is for the enforcement of a contract:—
- (i) to execute a mortgage or furnish any other security for securing the repayment of any loan which the borrower is unwilling to repay at once;
- Provided that where only a part of the loan has been advanced the lender is willing to advance the remaining part of the loan in terms of the contract; or
- (ii) to take up and pay for any debentures of a company;
- (b) where the suit is for:—
- (i) the execution of a formal deed of partnership the parties having commenced to carry on the business of the partnership; or
 - (ii) the purchase of a share of a partner in a firm;
- (c) where the suit is for the enforcement of a contract for the construction of any building or the execution of any other work on land:

Provided that the following conditions are fulfilled, namely:—

- (i) the building or other work is described in the contract in terms sufficiently precise to enable the court to determine the exact nature of the building or work;
- (ii) the plaintiff has a substantial interest in the performance of the contract and the interest is of such a nature that compensation in money for non-performance of the contract is not an adequate relief; and
- (iii) the defendant has, in pursuance of the contract, obtained possession of the whole or any part of the land on which the building is to be constructed or other work is to be executed.

PERSONS FOR OR AGAINST WHOM CONTRACTS MAY BE SPECIFICALLY ENFORCED

15. Who may obtain specific performance.—Except as otherwise provided by this Chapter, the specific performance of a contract may be obtained by:—

- (a) any party thereto;
- (b) the representative in interest, or the principal, of any party thereto;

Provided that where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract,

unless such party has already performed his part of the contract, or the performance thereof by his representative in interest, or his principal, has been accepted by the other party;

(c) where the contract is a settlement, or marriage, or a compromise of doubtful rights, between members of the same family, any person beneficially entitled thereunder;

(d) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(e) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(f) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(g) when a company has entered into a contract and subsequently becomes amalgamated with another company, the new company which arises out of the amalgamation;

(h) when the promoters of a company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation of the company;

Provided that the company has accepted the contract and has communicated such acceptance to the other party to the contract.

16. Personal bars to relief.—Specific performance of a contract cannot be enforced in favour of a person:—

(a) who would not be entitled to recover compensation for its breach; or

(b) who has become incapable of performing, or violates any essential term of, the contract that on his part remains to be performed in acts in fraud of the contract, or wilfully acts at variance with, or in subversion of, the relation intended to be established by the contract; or

(c) who fails to aver and prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him, other than terms the performance of which has been prevented or waived by the defendant.

Explanation.—For the purposes of clause (c), where a contract involves the payment of money, it is not essential for the plaintiff to actually tender to the defendant or to deposit in court any money except when so directed by the court;

and (ii) the plaintiff must aver performance of, or readiness and willingness to perform, the contract according to its true construction.

17. Contract to sell or let property by one who has no title, not specifically enforceable.—(1) A contract to sell or let any immovable property can not be specifically enforced in favour of a vendor or lessor:—

(a) who, knowing himself not to have any title to the property, has contracted to sell or let the property;

(b) who, though he entered into the contract believing that he had a good title to the property, can not at the time fixed by the parties or by the court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt.

(2) The provisions of sub-section (1) shall also apply, as far as may be, to contracts for the sale or hire of movable property.

18. Non-enforcement except with variation.—Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff can not obtain the performance sought, except with the variation so set up, in the following cases, namely:—

(a) where by fraud, mistake of fact or misrepresentation, the written contract of which performance is sought is in its terms or effect different from what the parties agreed to, or does not contain all the terms agreed to between the parties on the basis of which the defendant entered into the contract;

(b) where the object of the parties was to produce a certain legal result which the contract as framed is not calculated to produce;

(c) where the parties have, subsequently to the execution of the contract, varied its terms.

19. Relief against parties and persons claiming under them by subsequent title.—Except as otherwise provided by this Chapter, specific performance of a contract may be enforced against:—

(a) either party thereto;

(b) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(c) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(d) when a company has entered into a contract and subsequently becomes amalgamated with another company, the new company which arises out of the amalgamation;

(e) when the promoters of a company have, before its incorporation, entered into a contract for the purpose of the company and such contract is warranted by the terms of the incorporation, the company:

Provided that the company has accepted the contract and communicated such acceptance to the other party to the contract.

DISCRETION AND POWERS OF COURT

20. Discretion as to decreeing specific performance.—(1) The jurisdiction to decree specific performance is discretionary, and the court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a court of appeal.

(2) The following are cases in which the court may properly exercise discretion not to decree specific performance—

- (a) where the terms of the contract or the conduct of the parties at the time of entering into the contract or the other circumstances under which the contract was entered into are such that the contract, though not voidable, gives the plaintiff an unfair advantage over the defendant; or
- (b) where the performance of the contract would involve some hardship on the defendant which he did not foresee, where as its non-performance would involve no such hardship on the plaintiff;
- (c) where the defendant entered into the contract under circumstances which though not rendering the contract voidable, makes it inequitable to enforce specific performance.

Explanation 1.—Mere inadequacy of consideration, or the mere fact that the contract is onerous to the defendant or improvident in its nature, shall not be deemed to constitute an unfair advantage within the meaning of clause (a) or hardship within the meaning of clause (b).

Explanation 2.—The question whether the performance of a contract would involve hardship on the defendant within the meaning of clause (b) shall, except in cases where the hardship has resulted from any act of the plaintiff subsequent to the contract, be determined with reference to the circumstances existing at the time of the contract.

(3) The court may properly exercise discretion to decree specific performance in any case where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

(4) The court shall not refuse to any party specific performance of a contract merely on the ground that the contract is not enforceable at the instance of the other party.

21. Power to award compensation in certain cases.—(1) In a suit for specific performance of a contract, the plaintiff may also claim compensation for its breach, either in addition to, or in substitution of, such performance.

(2) If, in any such suit, the court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant, and that the plaintiff is entitled to compensation for that breach, it shall award him such compensation accordingly.

(3) If, in any such suit, the court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

(4) In determining the amount of any compensation awarded under this section, the court shall be guided by the principles specified in section 73 of the Indian Contract Act, 1872 (9 of 1872).

(5) No compensation shall be awarded under this section unless the plaintiff has claimed such compensation in his pleadings.

Provided that where the plaintiff has not claimed any such compensation in the pleadings, the court shall, at any stage of the proceedings, allow him to amend the pleadings on such terms as may be just, for including a claim for such compensation.

Explanation.—The circumstance that the contract has become incapable of specific performance does not preclude the court from exercising the jurisdiction conferred by this section.

22. Power to grant relief for possession, partition, refund of earnest money, etc.—(1) Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908 (5 of 1908), any person suing for the specific performance of a contract for the transfer of immovable property may, in an appropriate case, ask for—

- (a) possession, or partition and separate possession, of the property, in addition to such performance; or
- (b) any other relief to which he may be entitled, including the refund of any earnest money or deposit paid or made to him, in case his claim for specific performance is refused.

(2) No relief under clause (a) or clause (b) of sub-section (1) shall be granted by the court unless it has been specifically claimed:

Provided that where the plaintiff has not claimed any such relief in the pleadings, the court shall, at any stage of the proceedings, allow him to amend the pleadings on such terms as may be just for including a claim for such relief.

(3) The power of the court to grant relief under clause (b) of sub-section (1) shall be without prejudice to its powers to award compensation under section 21.

23. Liquidation of damages not a bar to specific performance.—

(1) A contract, otherwise proper to be specifically enforced, may be so enforced, though a sum be named in it as the amount to be paid in case of its breach and the party in default is willing to pay the same, if the court, having regard to the terms of the contract and other attending circumstances, is satisfied that the sum was named only for the purpose of securing performance of the contract and not for the purpose of giving to the party in default an option of paying money in lieu of specific performance.

(2) When enforcing specific performance under this section, the court shall not also decree payment of the sum so named in the contract.

24. Bar of suit for compensation for breach after dismissal of suit for specific performance.—The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be, but shall not bar his right to sue for any other relief to which he may be entitled, by reason of such breach.

ENFORCEMENT OF AWARDS AND DIRECTIONS TO EXECUTE SETTLEMENTS

25. Application of preceding sections to certain awards and testamentary directions to execute settlements.—The provisions of this Chapter as to contracts shall apply to awards to which the Arbitration Act, 1940 (10 of 1940), does not apply and to directions in a will or codicil to execute a particular settlement.

CHAPTER III

RECTIFICATION OF INSTRUMENTS

26. When instrument may be rectified.—(1) When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing (not being the articles of association of a company to which the Companies Act, 1956 (1 of 1956), applies) does not express their real intention then—

- (a) either party or his representative in interest may institute a suit to have the instrument rectified; or
- (b) the plaintiff may, in any suit in which any right arising under the instrument is in issue, claim in his pleading that the instrument be rectified; or
- (c) a defendant in any such suit as is referred to in clause (b), may, in addition to any other defence open to him, ask for rectification of the instrument.

(2) If, in any suit in which a contract or other instrument is sought to be rectified under sub-section (1) the court finds that the instrument, through fraud or mistake, does not express the real intention of the parties, the court may, in its discretion, direct rectification of the instrument so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.

(3) A contract in writing may first be rectified, and then if the party claiming rectification has so prayed in his pleading and the court thinks fit, may be specifically enforced.

(4) No relief for the rectification of an instrument shall be granted to any party under this section unless it has been specifically claimed:

Provided that where a party has not claimed any such relief in his pleading, the court shall, at any stage of the proceedings, allow him to amend the pleadings on such terms as may be just for including such claim.

CHAPTER IV

RESCISSION OF CONTRACTS

27. When rescission may be adjudged or refused.—(1) Any person interested in a contract may sue to have it rescinded, and such rescission may be adjudged by the court in any of the following cases, namely:—

- (a) where the contract is voidable or terminable by the plaintiff;
 - (b) where the contract is unlawful for causes not apparent on its face and the defendant is more to blame than the plaintiff.
- (2) Notwithstanding anything contained in sub-section (1), the court may refuse to rescind the contract—
- (a) where the plaintiff has expressly or impliedly ratified the contract; or
 - (b) where, owing to the change of circumstances which has taken place since the making of the contract (not being due to

any act of the defendant himself), the parties can not be substantially restored to the position in which they stood when the contract was made; or

- (c) where third parties have, during the subsistence of the contract, acquired rights in good faith without notice and for value; or
- (d) where only a part of the contract is sought to be rescinded and such part is not severable from the rest of the contract.

Explanation.—In this section “contract”, in relation to the territories to which the Transfer of Property Act, 1882 (4 of 1882), does not extend, means a contract in writing.

28. Rescission in certain circumstances of contracts for the sale or lease of immovable property, the specific performance of which has been decreed.—(1) Where in any suit a decree for specific performance of a contract for the sale or lease of immovable property has been made and the purchaser or lessee does not, within the period allowed by the decree or such further period as the court may allow, pay the purchase money or other sum which the court has ordered him to pay, the vendor or lessor may apply in the same suit in which the decree is made, to have the contract rescinded and on such application the court may, by order, rescind the contract either so far as regards the party in default or altogether, as the justice of the case may require.

- (2) Where a contract is rescinded under sub-section (1), the court—

- (a) shall direct the purchaser or the lessee, if he has obtained possession of the property under the contract, to restore such possession to the vendor or lessor, and

- (b) may direct payment to the vendor or lessor of all the rents and profits which have accrued in respect of the property from the date on which possession was so obtained by the purchaser or lessee until restoration of possession to the vendor or lessor, and, if the justice of the case so requires, the refund of any sum paid by the vendee or lessee as earnest money or deposit in connection with the contract.

(3) If the purchaser or lessee pays the purchase money or other sum which he is ordered to pay under the decree within the period referred to in sub-section (1), the court may, on application made in the same suit, award the purchaser or lessee such further relief as he may be entitled to, including in appropriate cases all or any of the following reliefs, namely:—

- (a) the execution of a proper conveyance or lease by the vendor or lessor;

- (b) the delivery of possession, or partition and separate possession, of the property on the execution of such conveyance or lease.

(4) No separate suit in respect of any relief which may be claimed under this section shall lie at the instance of a vendor, purchaser, lessor or lessee, as the case may be.

(5) The costs of any proceedings under this section shall be in the discretion of the court.

29. Alternative prayer for rescission in suit for specific performance.—A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

30. Court may require parties rescinding to do equity.—On adjudging the rescission of a contract, the court may require the party to whom such relief is granted to restore, so far as may be, any benefit which he may have received from the other party and to make any compensation to him which justice may require.

CHAPTER V

CANCELLATION OF INSTRUMENTS

31. When cancellation may be ordered.—(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

32. What instruments may be partially cancelled.—Where an instrument is evidence of different rights or different obligations, the court may, in proper case, cancel it in part and allow it to stand for the residue.

33. Power to require benefit to be restored or compensation to be made when instrument is cancelled or is successfully resisted as being void or voidable.—(1) On adjudging the cancellation of an instrument, the court may require the party to whom such relief is granted, to restore, so far as may be any benefit which he may have received from the other party and to make any compensation to him which justice may require.

- (2) Where a defendant successfully resists any suit on the ground—

- (a) that the instrument sought to be enforced against him in the suit is voidable, the court may if the defendant has received any benefit under the instrument from the other party, require him to restore, so far as may be, such benefit to that party or to make compensation for it;

- (b) that the agreement sought to be enforced against him in the suit is void by reason of his not having been competent to contract under section 11 of the Indian Contract Act, 1872 (9 of 1872), the court may, if the defendant has received any benefit under the agreement from the other party, require him to restore, so far as may be, such benefit to that party, to the extent to which he or his estate has benefited thereby.

CHAPTER VI

DECLARATORY DECREES

34. Discretion of court as to declaration of status or right.—Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Explanation.—A trustee of property is a “person interested to deny” a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

35. Effect of declaration.—A declaration made under this Chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

PART III

PREVENTIVE RELIEF

CHAPTER VII

INJUNCTIONS GENERALLY

36. Preventive relief how granted.—Preventive relief is granted at the discretion of the court by injunction, temporary or perpetual.

37. Temporary and perpetual injunctions.—(1) Temporary injunctions are such as are to continue until a specified time, or until the further order of the court, and they may be granted at any stage of a suit, and are regulated by the Code of Civil Procedure, 1908 (5 of 1908).

(2) A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit; the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

CHAPTER VIII

PERPETUAL INJUNCTIONS

38. Perpetual injunction when granted.—(1) Subject to the other provisions contained in or referred to by this Chapter, a perpetual injunction may be granted to the plaintiff to prevent the breach of an obligation existing in his favour, whether expressly or by implication.

(2) When any such obligation arises from contract, the court shall be guided by the rules and provisions contained in Chapter II.

(3) When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the court may grant a perpetual injunction in the following cases, namely:—

- (a) where the defendant is trustee of the property for the plaintiff;

- (b) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

- (c) where the invasion is such that compensation in money would not afford adequate relief;

- (d) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

39. Mandatory injunctions.—When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the court is capable of enforcing, the court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

40. Damages in lieu of, or in addition to, injunction.—(1) The plaintiff in a suit for perpetual injunction under section 38, or mandatory injunction under section 39, may claim damages either in addition to, or in substitution for, such injunction and the court may, if it thinks fit, award such damages.

(2) No relief for damages shall be granted under this section unless the plaintiff has claimed such relief in his plaint:

Provided that where no such damages have been claimed in the plaint, the court shall, at any stage of the proceedings, allow the plaintiff to amend the plaint on such terms as may be just for including such claim.

(3) The dismissal of a suit to prevent the breach of an obligation existing in favour of the plaintiff shall bar his right to sue for damages for such breach.

41. Injunction when refused.—An injunction cannot be granted—

- (a) to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;
- (b) to restrain any person from instituting or prosecuting any proceeding in a court not subordinate to that from which the injunction is sought;
- (c) to restrain any person from applying to any legislative body;
- (d) to restrain any person from instituting or prosecuting any proceeding in a criminal matter;
- (e) to prevent the breach of a contract the performance of which would not be specifically enforced;
- (f) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;
- (g) to prevent a continuing breach in which the plaintiff has acquiesced;
- (h) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust;
- (i) when the conduct of the plaintiff or his agents has been such as to disentitle him to the assistance of the court;
- (j) when the plaintiff has no personal interest in the matter.

42. Injunction to perform negative agreement.—Notwithstanding anything contained in clause (e) of section 41, where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement:

Provided that the plaintiff has not failed to perform the contract so far as it is binding on him.

43. Amendment of Act 10 of 1940.—In section 32 of the Arbitration Act, 1940, after the words "nor shall any arbitration, agreement or award be", the word "enforced" shall be inserted.

44. Repeal.—The Specific Relief Act, 1877 (1 of 1877), is hereby repealed.

Assented to on 14-12-63.

THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY (AMENDMENT) ACT, 1963 (ACT No. 48 OF 1963)

AN
ACT

further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952.

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1963.

2. Amendment of section 1.—In section 1 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), for sub-section (3), the following sub-section shall be substituted, namely:—

- "(3) It shall cease to have effect on the 14th day of March, 1970, except as respects things done or omitted to be done before such cesser of operation of this Act, and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser of operations as if it had then been repealed by a Central Act."

Assented to on 14-12-63.

THE EAST PUNJAB AYURVEDIC AND UNANI PRACTITIONERS (DELHI AMENDMENT) ACT, 1963 (ACT No. 49 OF 1963)

AN
ACT

further to amend the East Punjab Ayurvedic and Unani Practitioners Act, 1949 as in force in the Union territory of Delhi.

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 16.—In section 16 of the East Punjab Ayurvedic and Unani Practitioners Act, 1949 (East Punjab Act 14 of 1949), (hereinafter referred to as the principal Act), to sub-section (2), the following proviso shall be added, namely:—

"Provided that any such person, who has not been registered as a practitioner, may make within six months next after the commencement of the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963, an application for such registration and shall, on proof to the satisfaction of the Registrar that he had been in regular practice as a practitioner for a period of not less than ten years immediately preceding the date on which he might have made an application for being registered as a practitioner under this Act and of his continued practice as such since then, be entitled to have his name entered in the register on payment of the prescribed fee."

3. Amendment of section 34.—After sub-section (2) of section 34 of the principal Act, the following sub-section shall be inserted, namely:—

"(2A) Notwithstanding anything contained in sub-section (2) every person shall be entitled to have his name entered in the aforesaid list on payment of five rupees within a period of six months from the date of commencement of the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963, if he proves to the satisfaction of the Registrar that he, having been in regular practice of the Ayurvedic or Unani systems of medicine in this Union territory on the date mentioned in the notification under sub-section (1), has been in regular practice since then."

4. Amendment of section 37.—In section 37 of the principal Act, the following proviso shall be added, namely:—

"Provided that the provisions of this section shall not apply to the persons registered under the proviso to sub-section (2) of section 16."

Assented to on 20-12-63.

THE INDIAN TARIFF (SECOND AMENDMENT) ACT, 1963 (ACT No. 50 OF 1963)

AN
ACT

further to amend the Indian Tariff Act, 1934.

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Tariff (Second Amendment) Act, 1963.

(2) It shall come into force on the first day of January, 1964.

2. Amendment of First Schedule.—In the First Schedule to the Indian Tariff Act, 1934 (32 of 1934),—

(i) in Items Nos. 46, 46 (1), 47, 47 (1), 48, 72 (34), 72 (40) and 75 (12A), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963" wherever they occur, the word, figures and letters "December 31st, 1966" shall be substituted;

(ii) in Item No. 70 (2), in the last column headed "Duration of protective rates of duty", for the word figures and letters "December 31st, 1963", the words, figures and letters "December 31st, 1968" shall be substituted;

(iii) in Item No. 70 (3),—

(a) in the fourth column headed "Standard rate of duty", for the figures and words "45 per cent *ad valorem* or Rs. 88.60 per quintal, whichever is higher", the figures and words "35 per cent *ad valorem* or Rs. 85 per quintal, whichever is higher" shall be substituted;

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963", the word, figures and letters "December 31st, 1968" shall be substituted;

(iv) in Item No. 71 (14),—

(a) in the third column headed "Nature of duty", for the word "Protective", the word "Revenue" shall be substituted;

(b) in the last column headed "Duration of protective rates of duty", the existing entry shall be omitted;

(v) in Item No. 72 (12),—

(a) in the fourth column headed "Standard rate of duty" for the figures and words "35 per cent *ad valorem*", the figures and words "25 per cent *ad valorem*", shall be substituted.

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963" the word, figures and letters "December 31st 1966" shall be substituted;

- (vi) in Item No. 72 (14),
 (a) in the second column headed "Name of article", for the existing entry under 72 (14) (a) (i), the following entry shall be substituted, namely:—
 "Squirrel cage and slip ring induction motors and synchronous motors of a brake-horse-power not exceeding 3,000 but not less than one brake-horse-power, excluding variable speed commutator motors";
 (b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963" wherever they occur, the word, figures and letters "December 31st, 1965" shall be substituted;
- (vii) in Item No. 72 (39),—
 (a) in the second column headed "Name of article", for the existing entry, the following entry shall be substituted, namely:—
 "Power and Distribution Transformers up to 50,000 KVA and 220 KV on the H.T. side (primary voltage being over 250) excluding furnace, rectifier and flame-proof transformers and parts of such transformers, not otherwise specified";
 (b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963", the word, figures and letters "December 31st, 1965" shall be substituted;
- (viii) in Items Nos. 75 (5), 75 (6), 75 (7), 75 (7A) and 75 (8),—
 (a) in the third column headed "Nature of duty", for the word "Protective" wherever it occurs, the word "Revenue" shall be substituted;
 (b) in the last column headed "Duration of protective rates of duty", the existing entries shall be omitted;
- (ix) in Item No. 75 (12), in the second column headed "Name of article", for the figures, brackets and letter "75(18) (b)(ii)" shall be substituted;

(x) in Item No. 75 (16),—

- (a) in the fourth column headed "Standard rate of duty", for the figures and words "92½ per cent *ad valorem*", the figures and words "77½ per cent *ad valorem*" shall be substituted;
 (b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1963", the word, figures letters "December 31st, 1965" shall be substituted;

(xi) for Item No. 75 (18), the following Item shall be substituted, namely:—

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|---|---------|---------------------------------|-------|
| "75 (18) (a) Single cylinder fuel injection pumps for stationary diesel engines and component parts of such pumps. | Revenue | 20 per cent. <i>ad valorem</i> | |
| (b) Nozzle holders with a clamping capacity up to 25.4 mm. clamping diameter for nozzles (atomisers) for use on stationary or automobile diesel engines and nozzles therefor; and component parts of such nozzles and nozzle holders: | | | |
| (i) for use on stationary diesel engines; | Revenue | 20 per cent <i>ad valorem</i> . | .. |
| (ii) for use on automobile diesel engines. | Revenue | 50 per cent <i>ad valorem</i> . | .. |